

Jefferson County Zoning and Land Development Ordinance

Jefferson County,
West Virginia

Prepared By
The Jefferson County
Planning Commission

Adopted July 7, 1988, As Amended
Amendments adopted by the County Commission, January 2, 2014

Office Consolidation

This document contains additions and amendments approved by the
Jefferson County Commission on the following dates.

- (1) Amended by act of the County Commission, Effective May 4, 1989
- (2) Amended by act of the County Commission, Effective August 31, 1989
- (3) Amended by act of the County Commission, October 12, 1989
- (4) Amended by act of the County Commission, November 30, 1989
- (5) Amended by act of the County Commission, September 13, 1990
- (6) Amended by act of the County Commission, October 4, 1990
- (7) Amended by act of the County Commission, July 15, 1993
- (8) Amended by act of the County Commission, Effective May 18, 1996
- (9) Amended by act of the County Commission, Effective February 11, 1998
- (10) Amended by act of the County Commission, Effective July 1, 1998
- (11) Amended by act of the County Commission, Effective August 13, 1998
- (12) Amended by act of the County Commission, Effective October 14, 1999
- (13) Amended by act of the County Commission, Effective January 10, 2002
- (14) Amended by act of the County Commission, August 8, 2002
- (15) Amended by act of the County Commission, Effective November 7, 2002
- (16) Amended by act of the County Commission, Effective May 1, 2003
- (17) Amended by act of the County Commission, April 8, 2005 at 5:00 p.m.,
Invalidated and removed by Court Order February 26, 2008
- (18) Amended by act of the County Commission, Effective October 3, 2005
- (19) Amended by act of the County Commission, September 1, 2006
- (20) Amended by act of the County Commission, Effective September 28, 2006
- (21) Previously invalidated April 8, 2005 amendments that were reinstated by
Court Order on December 3, 2009
- (22) Added by act of the County Commission on March 10, 2011
- (23) Amended by act of the County Commission on July 7, 2011
- (24) Amended by act of The County Commission on November 3, 2011
- (25) Amended by act of The County Commission on November 10, 2011
- (26) Amended by act of The County Commission on January 2, 2014

Note: On November 1, 2008, an ordinance was enacted to amend the ordinance adopted July 7, 1988, with all previous amendments, to replace non-traditional zoning with traditional zoning. On January 8, 2009, there was a stay of the November 1, 2008 Amended Ordinance due to a petition to place the ordinance on a future ballot for referendum and a return to the ordinance which was effective prior to November 1, 2008. The referendum did not result in the approval of the new ordinance.

- (* Unidentified amendment approved by the County Commission September 14, 1989
- (* Unidentified amendment approved by the County Commission January 1, 1997
- (* Unidentified amendment approved by the County Commission June 12, 1997
- (* Unidentified amendment approved by the County Commission December 10, 1998

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ARTICLE 1: PURPOSE, JURISDICTION, APPLICATION, INTERPRETATION AND SEVERABILITY

Section 1.0 Effective Date

This Ordinance shall become effective ninety (90) days after the date on which the County Commission acts to adopt it.

Section 1.1 Purpose

The purpose of this Ordinance is to:

- A. Protect and encourage the health, safety, and general welfare of the present and future population of Jefferson County.
- B. Help guide the future growth and development of Jefferson County in accordance with the adopted Comprehensive Plan.
- C. Encourage growth and development in areas where sewer, water, schools, and other public facilities are or will soon be available in order to provide services in the most cost effective manner.
- D. Insure that growth and development are both economically and environmentally sound.
- E. Encourage the maintenance of an agricultural base in the County at a level sufficient to insure the continued viability of farming.
- F. Encourage and support commercial, industrial, and agricultural activities while maintaining land use, order and compatibility.
- G. Encourage an improved appearance of Jefferson County with relationship to the use and development of land and structures.
- H. Encourage the conservation of natural resources.
- I. Provide a guide for public action in the orderly and efficient provision of public facilities and services.
- J. Provide a guide for private enterprise in developing and building a strong economic community.
- K. Encourage Historic Preservation.

Section 1.2 Jurisdiction

These regulations shall apply to all properties within Jefferson County, West Virginia; but shall not include the incorporated areas.²³

Section 1.3 Application and Interpretation

- A. The terms of this Ordinance shall be applied to promote the intent in Section 1.1 and the Comprehensive Plan.
- B. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations or ordinance, or by private restrictions, covenants or declarations, the provisions of this Ordinance shall control, except where stated specifically herein.
- C. Where a provision of this Ordinance is in conflict with another provision of this Ordinance the stricter regulation shall apply.
- D. If a proposed use is not one in the list of those permitted in each zoning district, it shall be prohibited as though it was included in the list of prohibitions. However, the use may be approved if the Development Review System demonstrates that the use is compatible and appropriate with the neighborhood and the use can be approved by the Board of Zoning Appeals as a conditional use.^{2, 17, 21}
- E. Amendments to this Ordinance shall not adversely affect specific decisions made by the Board of Zoning Appeals or conditions on a Conditional Use Permit dated prior to the adoption of such amendment. Determination of adverse affect shall be made by the Zoning Administrator.^{8, 17, 21}

Section 1.4 Severability

Should any article, section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Zoning and Land Development Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.²³

Section 1.5 Use of Technical Information

Should any technical study, authorized by the Jefferson County Commission, become available after the adoption of this Ordinance, the County Commission shall authorize the Planning Commission to review such study to determine the extent that this Ordinance may need to be amended. Such studies may include, but, are not limited to, information on recreation, groundwater, hazardous wastes, and historic structures.²³

Changes that arise from this provision may include additions and/or deletions of sections in this Ordinance which would further encourage the proper management and preservation of our Natural and Cultural Resources. All such recommended changes are subject to Section 12.1.

ARTICLE 2: DEFINITIONS

Section 2.1 Definitions

For the purpose of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word “shall” is mandatory and the word “may” is permissive. The words “used for” shall include “arranged for”, “designed for”, “intended for”, “maintained for”, “constructed for”, or “occupied for”. The word “person” shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, lease, agent, servant, officer or employee of any of them. The word “land” shall include water surface and land under water.

Section 2.2 Terms Defined

Abandonment or Abandoned ^{17, 21}	The relinquishment of property or cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year.
Accessory Agricultural Dwelling Unit ²⁶	A dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building, and is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property.
Accessory Equipment ²²	Any equipment serving or being used in conjunction with a Wireless Telecommunications Facility. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
Accessory Use	A structure or use which is customarily incidental and subordinate to the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.
Addition, Major	A major addition shall include those additions which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage or additions which will cause the rerouting of traffic circulation shall be considered “major additions”.

Adjacent/Confronting Affected Property Owner ⁷	The owner of property adjacent to or confronting a proposed development (including the properties across any road, right of way or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Jefferson County Court House.
Adult Use ⁷	Uses that are commonly associated with adults only, including but not limited to: bars, lounges, dance clubs, stripping establishments, adult book stores, clubs, adult arcades, adult cabarets, adult motion picture theaters, massage parlors, sexual encounter establishments or other similar businesses.
Adult Arcade ¹⁵	An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
Adult Bookstore ¹⁵	An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specifies sexual activities.
Adult Cabaret ¹⁵	A nightclub, bar, restaurant, facility, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions of material that is characterized by any emphasis upon the depiction of specified sexual activities or specifies anatomical areas.
Adult Mini Motion Picture Theatre ¹⁵	An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
Adult Sauna ¹⁵	A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

Adult Theater ¹⁵	A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.
Affordable Housing ^{17, 21}	Housing units where the occupant is paying no more than 30 percent of Jefferson County median gross income for housing costs, including taxed and utilities.
Aggrieved or Aggrieved Person ^{17, 21}	A person who is denied by the Planning Commission or the Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeals, or has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.
Agricultural Use ^{17, 21, 23}	<p>The use of land for a bona-fide farming operation. This includes:</p> <ol style="list-style-type: none"> 1. Commercial Agricultural Enterprise; 2. Agriculture, Ranching; 3. Aquaculture; 4. Apiculture; 5. Horticulture; 6. Viticulture; 7. Fish, meat, poultry and game birds processing, provided that fifty percent (50%) of the meat processed must be raised on the site farm of the processing facility for minimum periods of three (3) months for beef and pork and two (2) months for lamb and poultry; 8. Animal Husbandry; including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; 9. Poultry husbandry and the production of poultry, game birds and poultry products; 10. Dairy production and processing of dairy products; 11. Equestrian uses; 12. The production of field crops including but not limited to tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, Christmas trees, maple sap, woody biomass, compost; 13. Pick your own farm products; 14. Agricultural tourism; 15. Farm vacation enterprise; 16. Farm brewery and winery subject to the requirements for such a use in Article 8; 17. Rental of garden plots; 18. Community supported agriculture; 19. The warehousing; processing, value added, drying, storage, distribution and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, husbandry or production; 20. Forestry

Alternative Structure ²²	For antenna-mounting purposes, a structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. The term Alternative Structure includes, but is not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples and electric distribution, electric transmission or other utility poles.
Amenities	Utilities, roadways, and public services which make a particular site more attractive for development. Section 6.4 governs the assessment of amenities as it relates to the Development Review System.
Antenna ²²	Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, Personal Communications Services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.
Antenna Array ²²	Two or more antennas that operate as components of a complete antenna suite for a single Wireless Telecommunication Facility.
Antenna, Concealed ²²	An antenna that is designed and/or erected on or in a building or alternative structure in such a way that it blends in with the existing façade and/or is located in such a way that it is not readily visible or discernible to the average individual at the adjacent street level.
Appalachian Trail Overlay District ²²	For purposes of the Wireless Telecommunication Facilities Ordinance, the area within one mile of the centerline of the Appalachian Trail.
Applicant ²³	Any person seeking to develop land, initiate a land use, obtain approval pursuant to the Development Review System Ordinance, or request an appeal from or variance to this Ordinance.
Area, Land	Land area refers to new land area, exclusive of streets and other public space.
Barber/Beauty Shop, Limited ²³	A barber or beauty shop limited to no more than two chairs.
Bed and Breakfast ²³	A single-family dwelling where lodging is offered for compensation, having no more than seven (7) bedrooms for this purpose, and meeting the requirements for such a use in Article 8 of this Ordinance.
Billboard	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising)
Blue Ridge Line ¹¹	The common surveyed boundary between Jefferson County, West Virginia and Loudoun County, Virginia.

Board ^{17, 21}	The Jefferson County Board of Zoning Appeals.
Boarding or Rooming House ²⁴	A building other than a Hotel, Motel, Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn where lodging is provided for compensation for more than 6 unrelated persons. Meals may or may not be served but are not provided to outside guests. There is one common kitchen facility.
Broadcast Tower ²²	A structure situated on a lot that is intended for transmitting television or AM/FM radio signals.
Buffer ⁵	An area on a property defined by a distance from the property line or other specifically designed line such as flood plain, wetland limit or stream bank. Said area is intended to absorb, lessen or neutralize the impacts of one land use from another. The nature of the buffer will depend on the impact(s) being neutralized.
Building	Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
Building, Height of	The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.
Building Line	The line established by law beyond which a building shall not extend as determined by front, side and rear yards, herein.
Caretaker Residence ²³	An accessory residential structure for the use of a caretaker or security guard.
Cell on Wheels "COW" ²²	A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.
Change of Use ²³	Any use which is different than the previous use of a building or land or any change in the North American Industry Classification System (NAICS) code in utilizing the Development Review System.
Church ²³	A building or site wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.
Clustering ^{5, 23}	Grouping structures in closely related groups at higher densities than normally permitted in certain areas in order to preserve other areas as parks, recreational areas or sensitive natural areas. Overall density of the total parcel remains within acceptable limits. See Section 5.7 for minimum area per dwelling unit and minimum lot area.

Co-location ^{10, 22}	For purposes of regulating commercial wireless telecommunication facilities, co-location means the placement of additional antennas or antenna arrays on an existing or approved telecommunication tower or support structure (or alternative structure), or otherwise sharing a common location by two or more FCC licensed providers of personal wireless services. Co-location includes antennas, combiners, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other components or improvements associated with a wireless telecommunication facility.
Commercial ¹	Any wholesale, retail or service business activity established to carry on trade whether or not for profit.
Commercial Agricultural Enterprise ^{17, 21}	Farm operations which will: <ul style="list-style-type: none"> A. Contribute in a substantial way to the area’s existing agricultural economy; and B. Help maintain agricultural processors and established farm markets. When determining whether a farm is a part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.
Commercial Wireless Service Provider ²²	Persons or entities who operate radio systems requiring an FCC license and who employ those facilities to provide point- to-point microwave links for wireline communication services (or connectivity between adjacent antenna sites), fixed wireless (including microwave), or mobile wireless communication services to third parties for compensation. Commercial Wireless Service Providers include, but are not limited to Cellular, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), paging, Competitive Local Exchange Carriers (CLEC) utilizing point-to-point microwave, and other point-to-point microwave links for wireline communication service.
Commission ^{17, 21}	The Jefferson County Planning Commission.
Comprehensive Plan	A composite of mapped and written text, the purpose of which is to guide the systematic physical development of the County and is adopted by the County Commission.
Conditional Use ^{17, 21, 23}	A use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the Board of Zoning Appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the Zoning and Land Development Ordinance.
Conditional Use Permit	A permit issued upon completion of the Development Review System which allows for the proper integration of compatible uses into the community.

Condominium ⁵	A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial or industrial depending on other provisions of this Ordinance. All such projects are subject to the West Virginia Uniform Common Interest Ownership Act. In the event that a specific requirement within the Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply.
Contiguous ^{17, 21}	Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.
Cottage Industry ^{8, 24}	An occupation conducted at a residential premises, as described in Article 4A of this Ordinance.
Country Inn ²³	A private residence at least 50 years old that offers sleeping accommodations to lodgers in 30 or fewer rooms for rent. For the purpose of this definition, a lodger means a person who rents a room in a country inn establishment for fewer than 30 consecutive days. The land use may include a restaurant open to the general public as well as to guests.
Cultural Facility ²³	A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest.
Day Care Center, Small ²³	A facility: (1) in a dwelling unit; (2) licensed by the state, if applicable; (3) providing care for five or fewer children or adults who (except for family members) do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. Family members who receive care in the facility are not included in the total; and (4) which may include some instruction.
Day Care Center, Large ²³	A facility: (1) licensed by the state, if applicable; (2) providing care for six or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and (3) which may include some instruction.
Department ²²	The Jefferson County Planning and Zoning Department.
Development	The subdivision of land; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, installation of a sign; and any mining, landfill or land disturbance, such as grading, paving and excavation.
Development Review System	A numerical rating system designed to assess a particular site's development potential based on soils and amenity criteria cited within this Ordinance.

Discernible ²²	Capable of being distinguished with the eye or mind from its surroundings as a telecommunications tower.
Dormitory ^{13, 23}	A building used for sleeping accommodations where such building is used accessory to a permitted use of land.
Dwelling Unit ^{7, 23}	One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, occupied by no more than one family, and containing no more than one independent food preparation area together with facilities for sleeping and bathing.
Dwelling, Detached	A building containing only dwelling units surrounded by yards or other open area on the same zoning lot.
Dwelling, Duplex ²³	A combination of no more than two single-family dwelling units, with each individual dwelling unit located on its own legal lot, and sharing a common lot line and a common vertical wall.
Dwelling, Multi-Family ²³	A building containing three or more dwelling units, which may include rental or condominium residential units.
Dwelling, Single Family ²³	A detached building containing not more than one dwelling unit and not occupied by more than one family.
Dwelling, Townhouse	One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.
Dwelling, Two-Family	A building located on one zoning lot containing not more than two dwelling units, arranged one above the other or side by side, and not occupied by more than two families.
Easement	A lawfully acquired right or privilege to use a parcel of land or a portion thereof for a specified purpose. An easement is retained by a person other than the owner of the land parcel.
Electric Distribution Poles ²²	Metal, wooden or concrete towers and poles used to suspend wires transporting electricity between substations at the terminus of transmission lines and individual customer premises.
Electric Transmission Towers ²²	Metal, wooden or concrete towers and poles used to suspend wires transmitting electricity between generating plants and substations supplying electricity to distribution and feeder lines.
Engineer	A person registered by the State of West Virginia through the Board of Registration of Professional Engineers.
Equestrian Uses ²³	Use of a site for horse riding, training, breeding, stables, or boarding.

Equipment Enclosure ²²	Facilities, equipment enclosure means a building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories.
Essential Utilities or Equipment ^{8, 9, 17, 21}	<p>Underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cable, fire alarm boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith.</p> <p>Essential utility equipment is recognized in three categories:</p> <ol style="list-style-type: none"> A. Local serving; B. Nonlocal or transmission through county or municipality; and C. Water and sewer systems, the activities of which are regulate, in whole or in part, by one or more of the following state agencies: <ol style="list-style-type: none"> 1. Public Service Commission; 2. Department of Environmental protection; or 3. Department of Health and Human Resources.
Expanded Use	The further development of a developed site.
FAA ²²	Federal Aviation Administration.
Family ²³	<p>Any of the following cases constitutes a family:</p> <ol style="list-style-type: none"> A. An individual; or B. Two (2) or more persons related by blood, marriage or adoption, or under approved foster care; or C. A group of not more than six (6) unrelated persons living together and sharing living areas in a dwelling unit; or D. A group of persons occupying a dwelling unit meeting the definition of a Residential Care Home.
Farm Market ²³	Market for the sale of farm products, and products incidental to farm products.
Farm Winery ²⁶	An agricultural use licensed as a “Farm winery” pursuant to the West Virginia Code, and meeting the requirements for a “Farm winery” in §60-1-1 et seq of the West Virginia Code as amended. A farm winery is also subject to the requirements of Section 8.5 of this Ordinance.
Farm Distillery ²⁶	An agricultural use licensed as a “Mini-distillery” pursuant to the West Virginia Code, and meeting the requirements for a “Mini-distillery” in §60-1-1 et seq of the West Virginia Code as amended. A farm distillery is also subject to the requirements of Section 8.5 of this Ordinance.
Farm Brewery ²⁶	An agricultural use that entails the manufacturing of beer in accordance with the requirements of the West Virginia Code. A farm brewery is also subject to the requirements of Section 8.5 of this Ordinance.

Farm Vacation Enterprise ²³	A farm adapted for use as a rural vacation area, which may include picnicking and sporting areas, fishing waters, camping, scenery, nature recreation areas, and similar uses. The site may contain up to 5 lodging units.
FCC ²²	Federal Communications Commission.
Flood-prone Area	Areas subject to the one hundred (100) year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Study prepared by the Federal Insurance Administration for Jefferson County, dated April 15, 1980, as may be amended.
Flood-prone Soils	Any area designated as flood-prone soils in the Soil Survey of Jefferson County, West Virginia prepared by the Department of Agriculture, Soil Conservation Service.
Frontage, Street	All property on the side of a street between two intersecting streets (crossing or ending), or if the street is a dead-end, then all property abutting on one side between an intersecting street and the dead-end of the street.
Functionally Equivalent Services ²²	FCC licensed providers of Commercial Mobile Radio Services (CMRS) classified as Cellular, Personal Communication Services (PCS), Paging, Specialized Mobile Radio (SMR) and Enhanced Specialized Mobile Radio (ESMR).
Glare	The effect produced by brightness sufficient to cause annoyance, discomfort, or lessen visual performance and visibility.
Governmental User ²²	Federal, state or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license, and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.
Group Residential Facility ²³	A facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Department of Health and Human Resources; and (4) complies with the State Fire Commission for residential facilities. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.

Group Residential Home ²³	A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.
Harpers Ferry Overlay District ²²	For purposes of regulating Wireless Telecommunication Facilities, an area bounded on the north by a line running west from the Potomac River shore to and along Engle Switch Road to its intersection with Route 230; thence south along Route 230 to its intersection with the CSX Railroad Valley Line; thence south along said railroad to Milepost 4 on the railroad at its intersection with Millville Road; thence east from that point to and across the Shenandoah River to a point 1000 feet distant on the eastern shore of the said Shenandoah River; then following a line 1000 feet inland from that opposite shore of the Shenandoah River to its confluence with the Potomac River; then along a line 1000 feet inland from the Potomac river shore running east to the Virginia state line; thence north to the Potomac River shore; thence west along the shore of the Potomac River to the point of origin. This district excludes the area within the jurisdictional boundaries of the town of Harpers Ferry and the town of Bolivar.
Historic Resource ²²	A site, structure, area, or district possessing historic importance as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency.
Historic Site/ Property	Any lot, parcel, historic structure, or designated area which has been listed on the West Virginia or the National Register of Historic Places.
Home Occupation, Level 1 ^{8, 24}	An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.
Home Occupation, Level 2 ^{8, 24}	An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.
Hunting, Shooting, Archery and Fishing Clubs, Public or Private ²³	Land owned by an organized group of persons formed as a club that is used for hunting, fishing, shooting, archery and similar types of passive recreation.
Impervious Surface	Any structure, material, or surface which reduces and prevents absorption of storm water into the earth.
Improvements	Modifications to land which increase its value or utility. Improvements include, but are not limited to, buildings and structures, road grading, road surfacing, landscaping, curbs, gutters, storm sewers and drains, sidewalks, street signs, modifications to watercourses, water supply facilities, sewage disposal facilities, and park and recreation equipment.

Institutional Use ^{17, 21, 23}	A non-profit, public or quasi-public use, such as a religious facility, library, public or private school, hospital, or government owned, operated, or supported facility or land use for public purpose.
Kennel ²³	The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
Land Surveyor	A person registered by the State of West Virginia through the Board of Examiners of Land Surveyors.
Lattice Tower ^{9, 22}	A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.
Light Industrial ^{1, 23}	Any industry that does not use a significant amount of water except for domestic purposes. Industrial uses that do not create noise, odors, smoke and objectionable nuisances or hazards. Any uses listed in Section 5.6B (as amended) are not considered light industrial.
Lot	A tract of land area meeting local development standards which is intended for building development whether immediate or future.
Lot Area	The total horizontal area included within the rear, side and front lot or proposed street lines of the lot.
Lot, Corner ²³	A lot abutting on two intersecting streets. Both sides abutting the streets forming the corner shall be considered front lot lines unless otherwise specified in this Ordinance, with the exception of corner lots that front on a private or public road on one edge and an access easement serving 5 lots or fewer on one edge. For such lots, a front yard setback for the principal structure applies to the edge of the lot that fronts on a private or public road and a side yard setback for a principal structure applies to the edge of the lot that fronts on the access easement. A corner lot must have at least one rear lot line.
Lot Line, Front ^{5, 23}	The side or sides of an interior or through lot which abut a street. Front lot lines shall be measured from the Road Improvement Easement where one exists. For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply.
Lot Line, Side ^{5, 23}	Any lot line other than a front lot line or rear lot line.
Lot of Record	A written or graphic description of a lot that is on record in the office of the Clerk of the County Commission of Jefferson County at the adoption of this Ordinance.

Manufactured Housing ²³	A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Section 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.
Massage Parlor ⁷	An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, certified massage therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
Medical/Dental/ Optical Office, Small ²³	A medical, dental, or optical office limited to two practitioners.
Mobile Home ²³	A detached structure with the following characteristics: It is designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, and it is designed for transportation after fabrication on streets or highways on its own wheels, or on flatbeds or other trailers, or detachable wheels, and it arrives at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. A mobile home is distinct from a manufactured home.
Mobile Home Park	A lot, site, or parcel of land used or intended to accommodate two (2) or more mobile homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A mobile home park does not include mobile home sales lots, which unoccupied mobile homes are parked for inspection and sale. This term includes all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.
Model Home/ Sales Office ²³	A dwelling unit temporarily used for display purposes as an example of dwelling units available for sale in a residential development approved by Jefferson County. Model homes may include sales offices for dwellings within the development.

Modular Unit	A factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure for residential, commercial, educational, or industrial uses.
Monopole ^{9, 22}	A support structure constructed of a self-supporting hollow metal tube securely anchored to a foundation.
Motor Vehicle ^{17, 21}	Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways.
Multi-Residential Use	A deeded lot or parcel on which two or more dwelling units is located.
Natural Undisturbed Conditions ⁵	This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting or leveling and where natural vegetation exists.
Natural Vegetation ⁵	This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation.
Neighborhood ^{17, 21}	An area generally confined to a one-mile radius from the perimeter of a proposed development.
Nonconforming Use	A use of a building or of land lawfully existing at the time this Ordinance becomes effective and which does not conform with the use regulations of the district in which it is located. Any new lines of division within a subdivision of a parcel that is a nonconforming use shall meet the regulations of this Ordinance.
North American Industry Classification System (NAICS) ²³	A system to classify business establishments according to type of economic activity.
Non-residential ^{17, 21}	A commercial, industrial, or institutional use.
Nursing or Retirement Home	This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.
Open Space	Land within a proposed development site excluding areas devoted to buildings, structures, roadways and parking.
PCS ²²	Personal Communication Services.
Plat ²³	A scaled, graphic drawing of a land subdivision project prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.

Preliminary Plat ²³	A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development, and is prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance.
Preschool ²³	Use of a site for the provision of pre-elementary educational services on a scheduled basis to children through kindergarten. If the West Virginia Department of Education establishes requirements for a preschool, the land use shall meet these requirements.
Primary Public Safety Provider ²²	An FCC licensed governmental user that uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary Public Service Provider does not include Commercial Wireless Service Providers, or Competitive Local Exchange Carriers (CLEC), who provide telecommunication services on a commercial basis to Primary Public Service Providers, or who deliver emergency calls or messages from its customers to a Public Safety Answering Point (PSAP).
Principal Use ²³	The primary or predominant use of any site.
Principal Permitted Use ²³	Any use which is or may be lawfully established in a particular district, approved by the Departments of Planning and Zoning without requirement of Development Review System review or approval by a board or commission, provided the use conforms with all applicable requirements of this Ordinance.
Private Business User ²²	Persons or entities which operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services, or point-to-point microwave links for commercial wireline communication services, to third parties for compensation.
Prohibited Use	A use that is not permitted.
Publicly Owned Facility ²³	Use of a site for government operations or activities, and not otherwise defined as a public safety facility; school, elementary or secondary; school, university or college; school, vocational or professional; hospital; cultural facility; or essential utility equipment.
Public Safety Facility ²³	Facilities that provide health and safety services to the general public including, but not limited to fire stations, police stations, and emergency medicine or ambulance stations or facilities.
Public Highway	Any highway or road in Jefferson County which is part of the Federal or West Virginia public highway system and which is so identified by and numbered on the most recent General Highway Map published by the West Virginia Department of Highways.

Research and Development ¹³	Research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products.
Residential ¹	Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.
Residential Care Home ²³	The use of a site for the provision of a family-based facility in a single-family dwelling unit providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from mobility, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism, emotional illness, or similar conditions.
Restaurant, Fast Food, Limited ²³	Takeout pizza/sandwich shops not exceeding 600 square feet.
Restaurant, Limited ²³	A food service establishment not exceeding 2000 square feet and where the primary mode of food distribution is by server.
Retail Food Store, Limited ²³	A retail food store not exceeding 1500 square feet of retail floor space.
Right-of-Way	A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.
Road	A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.
Rural Reception/Event Facility ²⁶	A facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events in the Rural, Village, Residential Growth and Residential-Light Industrial-Commercial Districts (permitted by Special Exception). Such events are limited to events that involve extended families and friends such as weddings, wedding receptions, birthday events, anniversary events, reunion events and/or family gatherings. No events that involve charging admission or are solely performance events are permitted under this provision.
Rural Reception/Event Facility, Small ²⁶	A Rural Reception/Event Facility in the Rural District for the hosting of events such as weddings with attendance not to exceed 75 cars at a frequency of no more than one event per month.
School, University or College ²³	An educational institution that offers specialized instruction in any of several fields of study and/or in a number of professions or occupations and is authorized to confer various degrees such as the bachelor's degree. Education uses may include a variety of uses such as classroom buildings, administrative offices, sports facilities, student housing, research facilities and other related uses operated by the governing board of the institution within the campus or on adjoining lots.

Seasonal Use ⁵	A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons.
Sensitive Natural Area ⁵	An area of wetlands, stream or river banks and forest which exists as a habitat supporting rare or endangered species or which has been dedicated perpetually to environmental preservation by easement, covenant or other legal instrument or which is otherwise protected for environmental purposes by State or Federal statute.
Setback Line ²³	That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. For attached dwelling unit types (duplex, multi-family, townhouse, two-family, and similar residential uses) no setback between attached dwelling units is required.
Sexual Paraphernalia Store ¹⁵	Any retail store specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specific sexual activities or used in connection with specified sexual activities.
Shopping Center ⁷	A commercial facility on a single lot with common parking facilities that uses or leases separate areas of space to retail or service oriented businesses.
Shrub, Evergreen	A low growing, usually several stemmed, woody plant which has foliage that remains green and functional through more than one growing season.
Sign	Any object, device display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
Sign, Animated	A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.
Sign, Business	A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.
Sign, Freestanding	A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business or service advertised by the sign is located.
Sign, Outdoor Advertising	A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located. This term shall include billboards.

Sign, Vehicle ²³	A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day-to-day operation of the business.
Soil Value	A relative numeric value assigned to soil groups based on the group's potential for agricultural production.
Species, Rare or Endangered	Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of the Interior, Department of Fish and Wildlife Management.
Specified Anatomical Area ¹⁵	As used herein specified anatomical areas means and includes any of the following: <ul style="list-style-type: none"> A. Less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or B. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
Specified Sexual Activities ¹⁵	As herein, specific sexual activities means and includes any of the following: <ul style="list-style-type: none"> A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; Masturbation, actual or simulated; or C. Excretory functions, when such activities are a part of or in connection with any of the activities set forth in the following definitions: Adult Use; Adult Arcade; Adult Bookstore; Adult Cabaret; Adult Mini Motion Picture; Adult Sauna; Adult Theater; Massage Parlor; Sexual Encounter Establishment; and, Sexual Paraphernalia Store.
Staff ^{17, 21, 23}	Personnel employed in the Departments of Planning, Zoning, and Engineering.
Standard Details ^{7, 23}	Minimum acceptable details approved by the County Engineer for use in preliminary plats, site plans, and related improvement plans. Said approval does not relieve the subdivider, the design consultant, or the builder of the responsibility for structural adequacy and sound construction.

Street ²³	(See Road)
Support Structure ²²	A structure designed to support Wireless Telecommunication Facilities including, but not limited to, monopoles, lattice towers, utility poles and other freestanding self-supporting structures.
Telecommunication ⁹	The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means electrical or electromagnetic systems.
Tower Base ²²	The foundation, usually concrete, on which a telecommunication tower is situated. For measurement calculations, the tower base is the actual or geometric center of the tower. For structures lacking a foundation the tower base is the ground elevation of the structure.
Tower Height ²²	The vertical distance measured from the tower base to the highest point on a telecommunication tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.
Tower Site ²²	The land area (including any associated easement areas) that contains, or will contain, any proposed telecommunication tower, related equipment enclosures and other improvements; together with any tower fall zone.
Urban Growth Boundary ²³	A site-specific line, delineated on the Jefferson County Zoning Map or a written description in the Jefferson County Zoning and Land Development Ordinance identifying an area around and outside the corporate limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a prospective twenty-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.
Use ⁷	An activity that constitutes a legal employment of a land parcel or lot exclusive of ancillary parking and drives.
Utility Poles ²²	Metal, wooden or concrete poles used to suspend wires or cables for electric, telephone or television cable services.
Variance ^{17, 21, 23}	A variance is a deviation from the minimum standards of the Zoning and Land Development Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classification of a parcel of land.
Vehicle ^{17, 21}	A means of carrying or transporting something.
Vehicular Miles ^{17, 21}	Distance by motor vehicle between two points utilizing public highways.
Visible ²²	Capable of being seen by the unaided eye in the daylight.

Vocational and/or Training Facility for Adults ²³	A specialized or accredited instructional establishment that provides on-site training or education in business, commercial, and/or trade skills. The land use is conducted in a campus setting, and may include classroom buildings, dormitories, cafeterias, gymnasiums (whose use is limited to the students, participants and instructors at said school or training facility), and administrative buildings. Incidental instructional services in conjunction with another primary use shall not be considered a Vocational and/or Training Facility for Adults. This use does not include School, University or College. In the Rural District, the use must be conducted in a campus setting.
Wetland ⁵	An area that is inundated or saturated by surface water or ground-water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The substrata is predominantly hydric soil.
Wireless Telecommunication Antenna ⁹	The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
Wireless Telecommunication Equipment Shelter ⁹	The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
Wireless Telecommunication Facility ^{9, 22}	A facility consisting of the equipment and structures involved in transmitting or receiving telecommunications or radio signals to or from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
Wireless Telecommunication Facility, Co-Located ²²	(See Co-location.)
Wireless Telecommunication Facility, Concealed ²²	A wireless telecommunication facility with all antennas camouflaged to match or complement the color and architectural treatment of the surface of an existing structure upon which they are mounted; or which have all facility components concealed behind a façade or parapet wall, or inside a radome on a monopole that does not exceed the diameter of the monopole, or interlaced within or atop an electric distribution tower.
Wireless Telecommunication Facility, Temporary ²²	A vehicle-mounted or portable wireless telecommunication facility including portable towers, antennas, equipment enclosures, generators and associated electronics, cabling, wiring and hardware. Such a facility may include, but is not limited to, "cell on wheels" mobile equipment.

Wireless Telecommunication Tower ⁹	A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.
Wireless Telecommunication Tower, Speculative ²²	A Wireless Telecommunications Tower developed without binding commitments from one or more FCC licensees to utilize the tower within six (6) months of issuance of a certificate of occupancy for the Tower.
Zoning Ordinance, Map Amendment ²⁵	An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted in within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation.
Zoning Ordinance, Text Amendment ²⁵	An amendment to the text of the Zoning Ordinance resulting in a change in the language of the Ordinance that applies to all similar property county-wide, such as a change in principal permitted uses in a district.

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

Section 3.1 Administration

- A. The provisions of this Ordinance will be governed by the County Commission or the Zoning Administrator and Staff in accordance with §8A-1-1 et seq of the West Virginia State Code, as amended. With enactment of the Ordinance, the County Commission shall designate a Zoning Administrator for the day to day administration of the ordinance.^{5,17,21}
- B. An appeal to this Ordinance, however, may be made to the Jefferson County Board of Zoning Appeals subject to the provisions of §8A-1-1 et seq of the West Virginia Code, as amended.^{17, 21}
- C. The Jefferson County Board of Zoning Appeals shall evaluate all Development Review applications and approve or deny issuance of a conditional use permit.^{2, 17, 21}
- D. All departments, officials, and public employees of Jefferson County which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Ordinance.

Section 3.2 Zoning Administrator

- A. The Zoning Administrator shall administer and enforce the Zoning and Land Development Ordinance. This includes but is not limited to the following:²³
 - 1. Make determinations that all applications required by the Ordinance are complete and that all fees are paid.
 - 2. Interpret the provisions of the Ordinance as required by law.
 - 3. Issue Zoning Certificates as permitted by the Ordinance.
 - 4. Calculate the LESA point scores and determine the adequacy of the Support Data for all applications for a Conditional Use Permit.
 - 5. Issue all permits and Certificates as permitted by the Ordinance.
 - 6. Prepare and submit reports as required by the Ordinance or the Board of Zoning Appeals or Planning Commission.
 - 7. Conduct meetings and conferences pursuant to the Zoning and Land Development Ordinance.^{17, 21, 23}
- B. Any decision or action by the Zoning Administrator based on Section 3.2A above is subject to appeal to the Board of Zoning Appeals.^{17, 21}
- C. It shall be unlawful to develop, construct, alter, or reconstruct any structure or to change the use of any structure or property without first obtaining a zoning certificate from the Zoning Administrator. This provision may not apply to the general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.^{17, 21, 23}
- D. Each application for a zoning certificate shall be accompanied by a copy of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development. The plans shall be retained in the office of the Departments of Planning and Zoning.^{17, 21, 23}

- E. Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this Ordinance. All provisions of this Ordinance and amendments shall be maintained perpetually.
- F. The Zoning Administrator shall approve or disapprove issuance of a zoning certificate within sixty (60) days of the initial filing date providing the application is complete and fees are paid when filed and the request is in compliance of the provisions of this Ordinance.^{17, 21}
- G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.^{17, 21, 23}
- H. A filing fee, in accordance with the County fee structure, shall be charged for all zoning certification.

Section 3.3 Enforcement

- A. The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred.^{17, 21}
- B. As provided in §8A-1-1 et seq of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty (\$50.00) or more than five hundred dollars (\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense.^{5, 17, 21}
- C. When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3 of the West Virginia Code, as amended, to:^{17, 21, 23}
 - 1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved; or,
 - 2. Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

Section 3.4 Boards and Commissions²³

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.²
3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.
 - a. Filing an Appeal
 - i. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
 - ii. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
 - b. Notification
 - i. Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing.^{5, 17, 21}
 - ii. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.
 - c. Public Hearing
 - i. The Board shall hold a hearing within forty-five (45) days of the date the appeal is received in the Departments of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.^{5, 8, 17, 21}
 - ii. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail.
 - d. Continuance of Hearing
 - i. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.

4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - a. The Board shall approve a variance request if the Board finds that a variance:
 - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - ii. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
 - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
 - b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
 - c. Notification for a variance must be conducted according to the requirements of Section 3.4A.3.b.
 - d. A public hearing must be conducted according to the requirements of Section 3.4A.3.c and such hearing may be continued according to the requirements of Section 3.4A.3.d.
 5. The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit. The Board of Zoning Appeals review process for a conditional use permit application is established in Article 7 of this Ordinance.²
 6. In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.^{17, 21}
 7. Any party may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County within thirty (30) days of the Board's decision, pursuant to Chapter 8A of the West Virginia Code, as amended.^{2, 17, 21}
 8. Nothing in this Section shall be construed as permitting the Board of Zoning Appeals to exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of Chapter 8A of the West Virginia Code, as amended, which provisions of the Code are hereby incorporated herein by reference.^{14, 17}
- B. Planning Commission²³
1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.
 2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:
 - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;

- b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;
- c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;
- d. Make recommendations to the County Commission concerning planning and zoning issues;
- e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
- f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

C. County Commission²³

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
2. Approvals. Following a public hearing and the submittal of recommendations by the Planning and Zoning Department and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:
 - a. Comprehensive Plan
 - b. Zoning and Land Development Ordinance
 - c. Subdivision and Land Development Regulations
 - d. The Jefferson County Zoning Map
 - e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
 - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
 - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.
 - iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.
 - iv. The County Commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.
3. Hiring. The County Commission shall hire staff of the Departments of Planning and Zoning.
4. Appointments. The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.
5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

ARTICLE 4: GENERAL PROVISIONS

Section 4.1 Ordinance Deemed Minimum Regulations; Uniformity

The regulations set forth by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each kind of structure or land except as hereinafter provided.

For each zoning district, a limited number of principal permitted uses are listed, as well as several uses prohibited for all districts as listed in Section 4.4. All other uses, except prohibited uses, may receive a conditional use permit upon completion of the Conditional Use Permit process as described in this Ordinance, including a demonstration that the land use in a specific location will comply with the standards of the Development Review System and any other applicable requirements of this Ordinance.²³

Section 4.2 Compliance with Ordinance

Except as hereinafter specified, no land, building, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered except in conformity with the regulations herein specified for the district in which it is located and the Development Review System. This provision shall not apply to general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.

Section 4.3 Nonconforming Uses

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time that this ordinance is subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks or dimensional regulations of the zoning district in which it is located or the regulations of the Development Review System; subject, however to the following provisions:⁷

- A. Nonconforming uses may be upgraded or repaired, or alterations made to the use's facilities. However, expansion of any nonconforming use shall be limited to the lot that existed at the time of adoption of this Ordinance.^{7, 23}

Repair includes the following: replacement of same size (+/-35%) porches, awnings, decks roofs, overhangs, patios, or any other similar construction as approved by the Zoning Administrator. Additional acreage shall not be added to enlarge any nonconforming use unless approved via the Development Review System.²³

- B. Whenever a nonconforming use has been abandoned for a period of twelve (12) months, such use shall not be reestablished and any future use shall be in conformance with the provisions of this Ordinance.^{5, 17, 21}
- C. A nonconforming use may not be substituted for any other nonconforming use without the Board of Zoning Appeals review and public hearing, provided, however, to the following: upon notice to the Zoning Administrator with an application for and approval of a Zoning Certificate a nonconforming retail, service, or wholesale operation may be substituted with another retail, service or wholesale operation without such public hearing; provided again, however, the intended use does not include an adult use.^{7, 17, 21}

- D. Effective October 14, 1999, whenever a nonconforming use expands over 35% of the existing square footage of its operation said use shall meet all the applicable requirements of this Ordinance unless otherwise allowed by the Board of Zoning Appeals. Any nonconforming use that expanded between October 5, 1988 and October 14, 1999 may expand under this provision as if they have never utilized this provision in the past.^{7, 8, 12, 17, 21, 23}
 - 1. When a nonconforming use can be computed by units such as apartment units, motel/hotel units, mobile home parks, and similar uses, the 35% expansion shall be limited to 35% of the number of existing units.⁸
- E. A nonconforming shopping center (including spaces that were not leased in the existing building at the time of the adoption of this ordinance) may substitute uses according to Section 4.3C.⁷
- F. Section 4.3 is subject to Chapter 8A of the West Virginia Code, as Amended.^{17, 21, 23}
- G. This Section (4.3) does not apply to industrial uses that existed at the adoption of the ordinance. Such industries may expand provided that they meet the site plan standards of this ordinance, in addition to those of the Jefferson County Subdivision and Land Development Regulations.^{8, 23}
- H. A nonconforming use destroyed by a natural or unnatural calamity cannot be rebuilt without approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 3.^{12, 17, 21, 23}
- I. The nonconforming use automobile racing facility located on property specifically described as Tax Map 17, Parcels 2, 2.1 and 5 in the Kabletown District is permitted to expand as herein described:
 - 1. The commercial/competitive racing circuit as measured on January 10, 2002, 5,344 linear feet may add an additional 8,870 feet of commercial/competitive raceway surface, in accordance with (and not in addition to) the provisions of Section 4.3 of this Ordinance. The surface shall conform to a required 200 foot setback from all property lines.
 - 2. May add dormitory lodging with food service facilities that do not contain internally lit signs.
 - 3. May add automobile related research and development facilities.
 - 4. May add other automobile related facilities only for vehicles that are used on-site, including, but not limited to warehousing, parts, supplies and service.¹³

Section 4.4 Prohibited Uses

- A. Any existing or proposed use which is determined to be in conflict with any existing ordinance or laws of Jefferson County or law or regulation of the State of West Virginia or other governmental agency shall be prohibited even though such use may be allowed under the terms of this Ordinance.
- B. No land use shall be conducted that creates any injurious, noxious, or otherwise objectionable fire, explosive heat, or other hazard; noise, or vibration; smoke, dust, odor, gases, or other form of air pollution; or emit dangerous radioactivity in such a manner that if permitted would adversely affect the uses of an adjacent property or contaminate the ground water or surface waterways of the County. All land uses generating such conditions shall comply with the appropriate State and Federal Codes. Such compliance with applicable State and Federal laws shall be deemed as compliance with this Ordinance.

- C. Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.
- D. No materials or waste should be stored on a property in a form that could be transported to adjacent property by wind or water or other natural causes or forces.
- E. All methods of industrial waste or sewage treatment and disposal shall be in accordance with County, State and Federal Codes.
- F. Jails, prisons and/or penal institutions shall be prohibited in all zones except the industrial/commercial zone. The Development Review System does not supersede this prohibition.⁵
- G. No gambling or casino type game of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Provided, however, that such use shall only be permitted in the Industrial/Commercial Zone and shall be processed through the Development Review System (Article 6 and 7).^{6, 23}
 This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supersede this prohibition in the Residential Growth Zone, the Rural Agricultural Zone, the Village Zone, or the Residential/Light Industrial/Commercial Zone.²³
- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 22.504 of the Jefferson County Subdivision and Land Development Regulations.^{5, 23}
- I. No sales of fireworks are permitted outside the commercial zones, and are subject to the requirements of for such use in Article 8.^{8, 23}
- J. Vehicle signs left parked or standing on a public right-of-way, public property or private property.¹²
- K. Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall not be permitted in the Rural, Village, Residential Growth and Residential-Light Industrial-Commercial Districts.²³
 No conditional use permit shall be approved for any of these uses. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.^{15, 16}
- L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.²³
- M. Heavy industrial uses listed in Section 5.6(B) of this Ordinance are permitted only in the Industrial - Commercial District and require approval via the Development Review System.²³

Section 4.5 Agricultural Uses Permitted Generally

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.

Section 4.6 Distance Requirements

- A. Any uses or building subject to compliance with this section shall be located at least 200 feet from:
 - 1. Any lot in a residential district;
 - 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;¹
 - 3. Any lot which is part of a recorded subdivision; and
 - 4. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.
- B. Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from:⁷
 - 1. Any lot in the Residential Growth District;
 - 2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
 - 3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.²³

Section 4.7 Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.^{7, 22}

Section 4.8 Buildable Lot

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within thirty-five (35) feet of the intersection of the two (2) street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.²³

Section 4.10 Site Plan Requirements

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵
- B. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have a buffer yard of no less than two hundred (200) feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one-half (½) the front yard building setback.^{5, 7}
- C. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.
- D. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.
 - 1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least four (4) feet in height.^{7, 23}
 - 2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.
 - 3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
 - 4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.

Table 4.11 – 1 Setbacks, Buffers and Distance Requirements for Non-Residential Uses²³

ADJACENT USE \ PROPOSED USE		BUILDING SETBACKS		PARKING & ACCESS DRIVE SETBACKS		BUFFERS UNSCREENED/SCREENED				DISTANCE REQUIREMENTS				
		Any Use Except Industrial	Industrial Use	Any Use Except Industrial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial
FRONT	Comm'l Lot <=1.5 ac.	25	25	15	15	50/15		N/A	N/A	75		N/A	75	
	Comm'l Lot > 1.5 ac.	25	25	15	15	50/15		N/A	N/A	75		N/A	75	
	Industrial	50	25	25	25	200		25	N/A	200		N/A	200	
	Church	25	25	15	15	50/15		N/A	N/A	N/A		N/A	N/A	
	Multi-family	25	25	15	15	N/A	N/A/15	N/A	N/A	N/A		N/A	N/A	
SIDE	Comm'l Lot <=1.5	25	25	4	4	50/15		10	10	75		N/A	75	
	Comm'l Lot > 1.5 ac.	50	25	10	10	50/15		10	10	75		N/A	75	
	Industrial	50	25	25	20	200		20	20	200		N/A	200	
	Church	50	50	10	10	50/15		10	10	N/A		N/A	N/A	
	Multi-family	12	12	12	12	N/A	N/A/12	N/A	N/A	N/A		N/A	N/A	
REAR	Comm'l Lot <=1.5	25	25	4	4	50/15		10	10	75		N/A	75	
	Comm'l Lot > 1.5 ac.	50	25	10	10	50/15		10	10	75		N/A	75	
	Industrial	50	25	25	20	200		20	20	200		N/A	200	
	Church	50	50	10	10	50/15		10	10	N/A		N/A	N/A	
	Multi-family	30	30	15	15	N/A	N/A/15	N/A	N/A	N/A		N/A	N/A	

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.²³

- E. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.²³
- F. All buffer yards shall be maintained by the property owner.

- G. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -2 below:²³

Table 4.11 -2 Wetland Size in Acres^{5, 8, 23}

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- H. All required landscape plans shall contain the following elements:⁷
1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:²³
 - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
 - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.
 2. Evergreen buffer planting, as required, for full screening.
 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
 4. Structure plants for aesthetics and limited shade.
 5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.

Section 4.12 Design Standards for Multi-Family Developments²³

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.
- B. Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed fifty (50) percent of the gross land area.
- C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least twenty-five (25) feet from any street right-of-way.

Section 4.13 Development Adjacent to the Potomac and Shenandoah Rivers²³

- A. Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a five hundred (500) foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers.

ARTICLE 4A: HOME OCCUPATIONS AND COTTAGE INDUSTRIES^{8,24}

Section 4A.1 Home Occupation and Cottage Industry, General Standards

- A. A Zoning Certificate is required for a Cottage Industry or Home Occupation pursuant to Section 3.2 of this Ordinance.
- B. A Home Occupation or Cottage Industry shall be clearly incidental and subordinate to the use of the dwelling unit as a residence.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the Home Occupation or Cottage Industry, other than as provided in this Article.
- D. No equipment or process shall be used in a Home Occupation or Cottage Industry which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, at any lot line.
- E. The following land uses cannot be established as a Home Occupation or Cottage Industry:
 - 1. Boarding or rooming homes.
 - 2. Bed and breakfast establishments.
 - 3. Adult uses.
 - 4. Any business which involves the storage of weapons such as firearms (other than residents' hunting, protection and leisure weapons).¹²
- F. Any need for parking generated by the Home Occupation or Cottage Industry shall be met off street and other than in a required front yard.
- G. No outdoor storage of any kind, visible from a property line or a public or private right-of-way or vehicular access easement, is permitted.
- H. The business owner is responsible for ensuring compliance with all local, state, and federal taxing requirements.
- I. All applicable County, State, and Federal requirements must be met.

Section 4A.2 Exempt Activities

The following land uses do not constitute a Home Occupation or Cottage Industry, and do not require a Zoning Certificate:

- A. Telecommuting.
- B. A computer-based occupation involving one full-time resident and no other on-site employees, provided that the occupation generates no additional vehicular trips, no customer visits, no additional shipping or mailing that exceeds a normal residential volume, and would not be otherwise prohibited by this Article. This category includes internet-based sales activities that do not require the presence of inventory at the property, such as drop-shipping.
- C. The participation of an individual location in an event conducted annually or twice yearly with multiple locations, such as a home and garden tour or an art studio tour.

Section 4A.3 Home Occupation, Level 1

An occupation conducted in a dwelling unit for gain provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation. Said members must be full time residents of the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of the floor area of the dwelling unit.
- C. There shall be no sales, other than items handcrafted on the premises, in connection with such home occupation. Incidental sales of class-related material to students who receive instruction on the premises shall be permitted.
- D. Traffic generated by such home occupation must not exceed two (2) business related vehicle visits per day no more than ten (10) visits per week at the premises.

Section 4A.4 Home Occupation, Level 2

An occupation conducted in a dwelling unit for gain, provided that:

- A. The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.
- C. One sign, not exceeding two (2) square feet in area, non-illuminated, is permitted.
- D. There shall be no sales, other than items crafted on the premises, in connection with such home occupation. Incidental sales of class-related material to students who receive instruction on the premises shall be permitted.
- E. No more than three (3) business-related vehicle visits per day and no more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted.
- F. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days prior to approval of a Zoning Certificate for the land use. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant.
- G. For a Home Occupation located in an existing residential subdivision established after July 17, 1979, the minimum lot size is 20,000 square feet.

Section 4A.5 Cottage Industry

An occupation conducted at a residential premises for gain, provided that:

- A. The occupation must be owned and operated by a full-time resident of the property. Up to four (4) nonresident employees may be permitted to work on the premises.
- B. The use may be conducted at least in part within the dwelling unit. Said use area within the dwelling unit shall not exceed one half (1/2) of the floor area of the dwelling unit. Two subordinate structures shall be permitted in accordance with the requirements of this Article.
- C. There shall be no change in the outside appearance of the residential structure. One sign, not exceeding four (4) square feet in area, non-illuminated may be permitted.
- D. Sales on the premises shall be permitted with the limitation that no less than seventy-five (75) percent of the items for sale shall be products produced on the premises and that items not produced on premises shall be items similar or related to the items produced on the premises. Incidental sales of class-related material to students who receive instruction on the premises shall be permitted.
- E. No more than fifteen (15) business-related vehicle visits per day and no more than sixty (60) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted.
- F. Submittal of a sketch plan is required for all Cottage Industry applications. The plan need not be prepared by a licensed engineer or surveyor. Use of a sketch plan does not preclude compliance with applicable County, State, and Federal regulations. The plan submittal shall include the following elements:
 1. Accurate locations and dimensions of all existing and proposed:
 - a. Structures, paved areas, parking areas and drive aisles (including setbacks from property lines)
 - b. Septic areas
 - c. Access points to roads, driveways, and easements
 - d. Property boundaries
 2. Most recent deed for the property
- G. Additionally, site plans pursuant to the Subdivision and Land Development Regulations are required if the combined gross floor area of a new building, an addition, and/or an existing accessory structure as described in (1) – (4) below, to be used as a Cottage Industry, exceeds 1,500 square feet but is less than 3,000 square feet:
 1. New accessory structures, or
 2. An addition to an existing residence or accessory structure, when the addition is intended for use as part of a Cottage Industry;
 3. Existing accessory structures that are to be converted to be used as a part of the Cottage Industry, if constructed during the five years prior to application for a Zoning Certificate for a Cottage Industry;
 4. An existing structure or addition built without a required, valid building permit or Improvement Location Permit after December 20, 1975.

- H. The maximum combined gross floor area of a new building, an addition, and/or an existing accessory structure as described in subsection (j)(1) – (4), to be used as a Cottage Industry, is 3,000 square feet. For any additional building area exceeding 3,000 square feet, the development and property shall meet all requirements of the Subdivision and Land Development Regulations and the Zoning and Land Development Ordinance. Setbacks shall be as provided below for an accessory structure used for a Cottage Industry:
 - 1. For an accessory structure lawfully constructed during the five years prior to application for a Zoning Certificate for a Cottage Industry, setbacks are 25 feet from all lot lines.
 - 2. For an accessory structure lawfully constructed more than five years prior to application for a Zoning Certificate for a Cottage Industry, the applicable zoning district setbacks for an accessory structure apply.
- I. For a Cottage Industry located in the Residential Growth District or an existing residential subdivision, the minimum lot size is 2 acres.
- J. If a proposed Cottage Industry would utilize a private, shared right-of-way, driveway or easement for vehicular access, a Compatibility Assessment Meeting is required. The meeting shall be conducted as described in Sections 7.6A and 7.6C of this Ordinance, with the following exceptions:
 - 1. The purpose of the meeting is for the applicant to inform adjacent owners of the proposed Cottage Industry and to describe any associated traffic impacts.
 - 2. Owners of all properties with vehicular access to the right-of-way or easement shall be notified of the date, time, and place of the meeting by registered mail. Letters shall be mailed 14 days prior to the scheduled date of the meeting. Staff shall approve the letter as adequate prior to mailing, and the applicant must provide proof of mailing.
 - 3. During the Compatibility Assessment Meeting, attendees should limit their comments to the adequacy of the private, shared right-of-way, driveway or easement, to accommodate traffic generated by the proposed Cottage Industry.
 - 4. No Board of Zoning Appeals approval of the application is required.
- K. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days prior to approval of a Zoning Certificate for the land use. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant.

Section 4A.6 Private Covenants Running with the Land

Jefferson County shall not enforce or become involved in the enforcement of deed restrictions, covenants, easements, or any other private agreement, and, in the review of development proposals, the County will apply only its regulations to evaluate the proposal. All such restrictions shall be enforced by the parties to the restriction. It is the responsibility of an applicant for a proposed Cottage Industry or Home Occupation to research any private agreements relating to the subject property, contact the Homeowners' Association, or seek the advice of a surveyor, engineer or attorney.^{17, 21, 24}

ARTICLE 4B: WIRELESS TELECOMMUNICATION FACILITIES^{10, 22}

Section 4B.1 Purpose and Legislative Intent

The purpose of Article 4B, Wireless Telecommunication Facilities, is to balance the needs of residents of and visitors to Jefferson County for reliable access to wireless telecommunication networks and services with the community's desire to preserve the County's rural, historic and agricultural character and the quality of its residential neighborhoods.

To accomplish these objectives and to ensure that the placement, construction or modification of wireless telecommunication facilities complies with the provisions of the Telecommunications Act of 1996 and other Federal laws, and is consistent with Jefferson County's land use policies and Comprehensive Plan, this Article is intended to regulate the construction, placement and operation of wireless telecommunication facilities within Jefferson County. When any provision of this article is in conflict with any provision of the Jefferson County Zoning Ordinance or the Jefferson County Subdivision and Land Development Regulations, the stricter regulation shall apply.

This Article establishes parameters for the siting of Wireless Telecommunication Facilities. It is Jefferson County's intent to:

- A. Ensure access to reliable and robust wireless communications services throughout Jefferson County consistent with the aforementioned objectives;
- B. Encourage the use of existing structures such as buildings, water towers, silos, church steeples, monopoles, lattice towers, utility poles, electric distribution and transmission structures and other existing structures for the co-location of Wireless Telecommunication Facilities;
- C. Encourage the location of new Wireless Telecommunication towers in non-residential areas, with taller towers limited to the Industrial-Commercial zoning district;
- D. Minimize the number of new Wireless Telecommunication Towers that would otherwise need to be constructed by providing incentives for the use of existing structures;
- E. Encourage the location of new Wireless Telecommunication Towers, to the greatest extent possible, in areas where the adverse impact on the community will be minimal; and by encouraging the use of camouflage or concealment to create structures such as silos, faux trees and flagpoles that mimic elements that typically are found on Jefferson County's agricultural landscape and that appear in scale and context with their surroundings;
- F. Minimize or mitigate the potential adverse visual effects associated with the construction of Wireless Telecommunication Towers through the implementation of reasonable design, landscaping and construction practices;
- G. Ensure public health, safety, welfare, and convenience; and
- H. Conform to Federal and State laws that allow certain antennas to be exempt from local regulations.

Section 4B.2 Classification of Wireless Telecommunication Facilities and Development Review Process

For purposes of administering this Article, Wireless Telecommunication Facilities (hereafter “Facilities” or “Facility”) shall be classified as follows:

- A. Exempt Facilities as specified in Section 4B.3
- B. Concealed Wireless Telecommunication Facilities
- C. Co-located Wireless Telecommunication Facilities
- D. Temporary Wireless Telecommunication Facilities
- E. Wireless Telecommunication Towers

Exempt Facilities are allowed by right. Prior to the issuance of a Zoning Certificate, all other types of new Wireless Telecommunications Facilities listed above require approval of a Minor Site Plan as described in the Jefferson County Subdivision and Land Development Regulations and also meeting the submittal and design requirements of this Article. Additionally, Wireless Telecommunication Towers shall require submittal of a Concept Plan and a public hearing to allow for an analysis of demonstration of need, neighborhood compatibility, impact on cultural and historic resources, and visual mitigation.

Within ten (10) days of receiving a Concept Plan application for a Facility the Department shall notify the applicant in writing (1) that the application is sufficient or (2) the particular information needed as required by the provisions of this Article and the Jefferson County Subdivision and Land Development Regulations, to constitute a sufficient application. Once the additional information is received and the application is found to be sufficient, the Department shall notify the applicant of that finding.

Section 4B.3 Exempt Facilities Allowed by Right

This section covers antennas other than those associated with commercial wireless telecommunication facilities, such as facilities associated with governmental users, television and radio broadcast facilities, and private business users requiring an antenna support structure of twelve feet or less. Antennas allowed by right subject to special requirements of this section include:

- A. Amateur radio facilities mounted on supporting structures less than 100 feet in height provided however, that commercial wireless providers and private business users may not co-locate antennas on an amateur radio tower irrespective of its height.
- B. Residential antennas for receiving television or AM or FM radio broadcast signals.
- C. Residential or business customer premise antennas for receiving microwave, satellite or broadcast television signals, provided such antennas are less than one meter (39.4 inches) in diameter and are mounted on a support structure less than twelve (12) feet in height.

Section 4B.4 Concealed Wireless Telecommunication Facilities

Concealed Facilities are permitted in all zoning districts. The Department may issue a Zoning Certificate for a Concealed Facility consistent with the following terms and conditions:

- A. Concealed Facilities are permitted on buildings and alternative structures (other than telecommunication towers).
- B. For purposes of this section antennas mounted on electric transmission towers shall qualify as Concealed Facilities provided that antennas associated with such facilities do not extend more than twenty (20) feet above the top of the supporting structure. Equipment enclosures associated with such facilities may be mounted on the structure, placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad, metal skid or platform, or other foundation and screened so as to make them unobtrusive.
- C. For purposes of this section antennas mounted on an electric distribution pole, utility or street lighting pole or traffic light pole shall qualify as a Concealed Facility provided antennas associated with such facilities shall not extend more than twenty (20) feet above the top of the existing support structure.
- D. Utility poles may be extended up to twenty (20) feet in height to accommodate antennas for a Concealed Facility.
- E. For any utility pole height increases in the Harpers Ferry Overlay District, the Department shall refer the application to the Jefferson County Historic Landmarks Commission for review and comment before issuing a Zoning Certificate.
- F. Applications for such utility pole height extensions in the Appalachian Trail Overlay District shall be referred by the Department to the Appalachian Trail Conservancy and the National Park Service for review and comment prior to issuance of a Zoning Certificate.
- G. Antennas associated with Concealed Facilities, if flush-mounted on the side of a building or alternative structure, shall be camouflaged to match or complement the color and architectural texture of the surface.
- H. Antennas associated with a Concealed Facility shall not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.
- I. Equipment enclosures associated with Concealed Facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or façade which is camouflaged to match or complement the color and architectural treatment of the building. If antennas are placed on a structure other than a building, equipment enclosures associated with the facility may be mounted on the structure or placed underground or at ground level on a concrete pad, metal skid or platform, or other foundation. If placed at ground level, such equipment enclosures shall be screened so as to make them unobtrusive.
- J. All cabling and wiring connecting antennas, equipment enclosures, and other components of Concealed Facilities shall be colored or concealed in a manner that renders them unobtrusive.
- K. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between 8:00 a.m. and 7:00 p.m.
- L. Equipment associated with a Concealed Facility not located in a public right-of-way must meet the setback requirements for the zoning district in which it is located.

Section 4B.5 Co-located Wireless Telecommunication Facilities

Co-located Wireless Telecommunications Facilities are permitted within all zoning districts. Co-location includes the placement of additional antennas or antenna arrays on an existing or approved telecommunication tower or support structure (or alternative structure or Concealed Telecommunication Support Structure), or otherwise sharing a common location by two or more FCC licensed providers of personal wireless services. The Department may issue a Zoning Certificate for a Co-located Facility consistent with the following terms and conditions:

- A. Antennas associated with a Co-located Facility shall not be co-located on a support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.
- B. Co-located Facilities shall meet the following design standards:
 1. Antennas associated with a Co-located Facility located on a monopole shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - a. Antennas within a cylindrical radome matching the diameter of a monopole;
 - b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
 - c. Antennas mounted as an array arranged around a platform extending from the monopole.
 2. All equipment enclosures and other improvements accessory to a co-located Facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed twelve (12) feet in height.
 3. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.
 4. Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Department may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die. The landscaping requirements of this section do not apply to an application for co-location on a site with an approved site plan. The Department may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
 5. Signage at any ground-based portion of a Co-located Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.
 6. Before an application for a Co-located Facility can be processed, a copy of the applicant's FCC license must accompany its application. If FCC licenses for the

applicant have been provided to the Jefferson County Department of Planning & Zoning in conjunction with previous wireless facility applications, the applicant may certify that such licenses remain in full force and effect.

Section 4B.6 Temporary Wireless Telecommunication Facilities

Temporary Facilities are permitted in all zoning districts. The Department may issue a Zoning Certificate for a Temporary Facility consistent with the following terms and conditions:

- A. Temporary Facilities, including but not limited to Cell on Wheels (COW), may be placed at or near the location of an existing, proposed or approved Facilities for periods up to seventy-two (72) hours for equipment or signal propagation testing purposes or, where an existing facility is temporarily unavailable due to scheduled or unscheduled maintenance, without any requirement for a permit. Where scheduled or unscheduled maintenance will extend beyond seventy-two (72) hours, the wireless provider must obtain a Zoning Certificate. The Department may issue such a certificate for up to thirty (30) days upon a showing of good cause by the applicant. Such certificate may be extended for an additional thirty (30) day period if the applicant can demonstrate that extenuating circumstances necessitate an extension.
- B. In the event of a natural disaster, catastrophic event or public emergency that either renders an existing Facility unusable, or creates an urgent need for supplemental capacity to manage the emergency, temporary facilities may be placed in any area as necessary to provide coverage or capacity for longer periods upon the authority of the Director of the Office of Homeland Security and Emergency Management, with notification to the Director of the Planning and Zoning Department.
- C. Permits may be issued by the Department for up to one week for temporary facilities needed in conjunction with scheduled special events at specific locales that are likely to generate a need for additional capacity at the event which is expected to exceed existing installed capacity.
- D. Fees for permits for Temporary Facilities shall be in accordance with the Department of Planning and Zoning schedule of fees and charges.

Section 4B.7 Wireless Telecommunication Towers

Wireless Telecommunication Towers (hereafter “Tower” or “Towers”) are permitted in all zoning districts subject to the provisions of this section. The provisions of this section apply to an application for a new Tower, as well as for a major modification to an existing Facility or Support Structure that results in a substantial change to the facility or structure, including but not limited to a height extension of more than twenty (20) feet or ten percent (10%) of the current height of a facility or structure, whichever is greater, and/or replacement of the structure.

This section is not applicable to co-location of a new antenna array on an existing structure.

A. Site Plan Required

A minor site plan shall be required for all new Towers, as well as for Major Modifications to an existing Facility or Support Structure resulting in a substantial change to the Facility or Structure. In addition to the site plan review requirements of the Subdivision and Land Development Regulations, the site plan shall include all elements of a Concept Plan as established in Subsection B, and shall address conditions established by the Planning Commission in its review of the Concept Plan.

B. Concept Plan Submittal and Public Hearing Required

In addition to the requirements for a minor site plan, a proposed Tower shall require the submittal of a Concept Plan, subject to the following requirements:

1. Required elements for a Wireless Telecommunications Tower Concept Plan shall be the same as for a site plan as established in the Subdivision and Land Development Regulations, Appendix A, Section 1.3A, with the exception of Subsections 1.3A.20-22, 24-29, 31-35.
2. The following additional elements must be submitted:
 - a. Outside dimensions, use, and setbacks of all existing and proposed buildings, structures, towers, antennas, utility lines, driveways, and parking areas.
 - b. Height of the proposed tower measured from ground level at the center of the proposed structure, and height comparison to any nearby buildings or trees, or other applicable structures and natural landforms part of the site's background and foreground landscape.
 - c. Elevations and Cross-Section: Display topography with all proposed facilities including tower, equipment shelter and existing buildings.
 - d. Number, size and location of proposed and existing antennas; number of co-locations possible.
 - e. Method of camouflage (if any).
 - f. Locations of known historic structures.
 - g. A description of the anticipated construction and installation schedule.
 - h. Documentation verifying compliance with applicable Federal Communications Commission (FCC) standards and requirements to provide the proposed services.
 - i. Narrative addressing the design criteria of this section.
 - j. Dates, address list, and notice for Balloon Test.
 - k. Balloon Test exhibits as required in Subsection G of this Section.
 - l. Propagation maps as required in Subsection F of this Section.
 - m. Any other relevant information.
 - n. Additional application requirements of Subsection H of this Section.
3. Submittal and review of a Concept Plan shall follow the review process and timeline established in Section 24.119 – 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:
 - a. The application shall be exempt from Section 24.120A, Agency Reviews, and Section 24.120D, WVDOH, except as otherwise provided in this Subsection.

- b. Following the Department's determination of the sufficiency of a Concept Plan application:
 - i. The Department shall notify the Jefferson County Historic Landmarks Commission of an application filing.
 - ii. The Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic Resources Review standards of this Section.
- c. The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include a demonstration of need as required under this Article, neighborhood compatibility, impact on cultural and historic resources, visual mitigation, the submittal and design criteria of this Article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this Article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in the Department's approval of the site plan.
- d. Before the Department may approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with this Article, and that the application is consistent with the Comprehensive Plan.

C. Retention of Consultants

The Department may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's compliance with the provisions of this Article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and regulations at the applicant's expense. Fees charged to the applicant shall not exceed the actual cost of services rendered.

D. Applicant's Burden of Proof

The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record that a *bona fide* need exists for the proposed structure at its proposed height and location-as required in Subsection F, "Demonstration of Need", and that it has met all submittal and design criteria in this Article.

E. Proof of Eligibility

Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of an affidavit by the FCC licensee(s), and a copy of each wireless provider's FCC license. If such FCC licenses have been provided to the Department in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.

F. Demonstration of Need

As part of its application submission for a Concept Plan and for a site plan the applicant shall be required to submit propagation maps demonstrating a technical need for its proposed Tower and justifying the height of its antennas on the structure. One propagation map shall depict existing coverage without the proposed site and another depicting coverage with the proposed site. Such maps shall identify all adjacent sites whether existing, approved or proposed, and each map shall be accompanied by an engineer's affidavit attesting to the parameters or variables used to create the map.

Such propagation studies shall be submitted in both hard copy and in electronic format to facilitate information sharing, inclusion on the county's web site and to otherwise maximize public awareness.

G. Balloon Test

1. An applicant shall conduct a balloon or crane test to simulate the maximum height of the proposed Tower. Following the test, the applicant shall submit color photo simulations showing the proposed structure as it would appear viewed from the closest residential property or properties and from adjacent roadways. Photographs should be taken from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and from up to five significant structures or locations identified by the Department. A map shall be supplied identifying the location of each photo. Before and after photo exhibits will be presented.
2. Notice of the dates and times of such tests shall be mailed to all property owners within a one-quarter mile (1320 feet radius) from the proposed location, in addition to the Historic Landmarks Commission at least ten (10) days prior to such tests. The applicant shall utilize address and owner information on file at the Jefferson County Assessor's Office. Such notices shall designate a primary date and an alternate date in case of inclement weather. Notices shall state that there is an application to the Planning Commission for a Wireless Telecommunication Tower on the property and provide the file number. The Department shall review and approve the sufficiency of the notice and the list of addresses prior to mailing. An affidavit of mailing accompanied by a list of recipients and addresses shall be included in the application file.
3. Such notice shall also be published in the legal advertisements section of a newspaper of general circulation in Jefferson County at least ten (10) days prior to such tests. Such notices shall designate a primary date and an alternate date in case of inclement weather. The newspaper's affidavit of publication shall be submitted as part of the application file.
4. In the event the applicant seeks to increase the height of the proposed Tower, or move its location more than one hundred (100) feet laterally, from that stated in its original notices, additional notice shall be required to be given consistent with the above requirements.

H. Preferred Structures and Locations Policy

1. Co-location Encouraged. Prior to the approval of the construction of a new Tower, it is the policy of Jefferson County to encourage co-location of wireless facilities in the following locations:
 - a. Co-location of antennas on existing electric transmission towers.

- b. Co-location and the use of existing or approved towers, buildings or alternative structures such as buildings, water towers, silos, church steeples, and utility poles more than fifty (50) feet in height within a one-quarter mile radius of a proposed Tower, where appropriate.
2. Preferred Support Structures. In light of Jefferson County's agricultural, and increasingly residential character, it is the policy of Jefferson County that for Facilities located outside the Industrial-Commercial zoning district, support structures for antennas are desired in the following descending order of preference:
 - a. Silos
 - b. Other Alternative Structures
 - c. Monopoles
 - d. Lattice Towers
3. Preferred Locations. For new Towers, it is the policy of Jefferson County to encourage use of the following facilities or locations, in descending order of priority:
 - a. The Industrial - Commercial District
 - b. Non-residential areas screened by existing vegetation and located outside of the Industrial - Commercial District
4. Application Requirements. In furtherance of the Preferred Structures and Locations Policy in this Article, the following provisions shall apply to an application for a site plan for a Tower:
 - a. The application must demonstrate that the proposed Tower is designed structurally, electrically, mechanically and in all other respects to accommodate additional wireless users unless the applicant demonstrates that structure height, topography, or other factors render this requirement unfeasible. An application must include an affidavit from the tower owner affirming that, subject to exceptions for structure height, topography, or other factors which make co-location unfeasible, the Tower is available for co-location.
 - b. A site plan for a Tower shall not be approved if an electric transmission tower with capacity of 230 kV or less is located above, or within twenty-five (25) feet below, the ground elevation of, and within a one quarter mile radius laterally, of a proposed Tower, unless the applicant can demonstrate that:
 - i. Sufficient easements or other interests in real property cannot be obtained to accommodate the Facility on the electric transmission tower;
 - ii. The electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;
 - iii. Reasonable terms, rates, or conditions cannot be negotiated with the electric utility;
 - iv. The location of the Tower will not allow the applicant to meet coverage or capacity requirements; or
 - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers.

- c. Where suitable electric transmission towers are not available for co-location of antennas, a site plan for a Tower located outside the Industrial-Commercial zoning district shall not be approved unless the applicant demonstrates that the equipment planned for the proposed Tower cannot be accommodated on existing or approved towers, buildings, silos or other alternative structures more than fifty (50) feet in height within a one-quarter mile radius of the proposed Tower due to one or more of the following reasons:
 - i. The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced modified or replaced to accommodate planned or functionally equivalent equipment at a reasonable cost;
 - ii. Existing and approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer;
 - iii. Reasonable terms, rates, or conditions cannot be negotiated with the owner of the structure and/or property;
 - iv. The location of the structure will not allow the applicant to meet coverage or capacity requirements; or
 - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers, buildings or alternative structures.
- d. Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.

I. Cultural and Historic Resources Review

- 1. In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:
 - a. An application for a proposed Tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide the Department an affidavit certifying delivery.
 - b. An application for a proposed Tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide the Department an affidavit certifying delivery.

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

- 1. Antenna Mounting Preferences

Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

 - a. Antennas within a cylindrical radome matching the diameter of a monopole.

- b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the Tower.
 - c. Antennas mounted as an array arranged around a platform extending from the monopole.
2. Height Restrictions
- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
 - b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.
3. Fall Zone
- a. With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.
 - b. No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.
4. Signage
- Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.
5. Lighting & Marking
- Towers shall not be lighted or marked unless required by the FCC or by the FAA.
6. Electrical Supply
- Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.
7. Fencing
- Towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Planning Commission may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height at planting. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die.
- The Planning Commission may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
8. Tower Color
- Towers shall have a flat gray or galvanized finish unless the Planning Commission determines that another color scheme would be a preferable alternative to address visual mitigation and such scheme is consistent with FCC and FAA standards for antenna structure marking.

Section 4B.8 Maintenance & Removal Bonds

Prior to issuance of a Zoning Certificate, each applicant for a Facility shall be required to execute a standard Maintenance / Removal agreement binding the applicant and its successors and assigns to properly maintain the exterior appearance of, and to ultimately remove such facilities, upon abandonment or cessation of operations. The applicant shall be required to post a bond for this purpose in accordance with the Department of Planning & Zoning schedule of fees and charges. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the Maintenance/Removal agreement have been satisfied. Private business users operating a single Facility at their principal place of business and Governmental Users are exempt from this bond requirement.

Section 4B.9 Abandonment & Removal

- A. Any Facility or Support Structure that is not operated for a period of twelve (12) consecutive months may be referred to the Property Safety Enforcement Agency Board for a determination of the structural soundness of the Facility or Structure.
- B. If a structure is determined to be unsound, it will be considered abandoned.
- C. The owner or operator of any Facility or Support Structure shall remove the Facility pursuant to the requirements of the Jefferson County Property Safety Ordinance.

**ARTICLE 5: DISTRICT ESTABLISHMENT; ZONING MAPS; DISTRICT BOUNDARIES;
DISTRICT REGULATIONS**

Section 5.1 Establishment of Districts¹

For the purpose of this Ordinance, all land within the County, exclusive of the incorporated towns, is hereby designated as one of the following zoning districts:

- R-G Residential/Growth District
- I-C Industrial/Commercial District
- R-A Rural/Agricultural District
- R-L-C Residential/Light Industrial/Commercial District
- V Village District²³

Section 5.2 Boundaries of Districts

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts shall follow lot lines, centerlines of streets, alleys, corporate limit lines, or centerlines of waterways as existing at the time of the adoption of this Ordinance.

Section 5.3 District Maps

The districts shall be of the size and shape shown on the Jefferson County Zoning Maps and shall hereby be made a part of this ordinance. A copy of the said maps shall be signed by the County Commissioners upon the adoption of these regulations and recorded within the Courthouse.

The Jefferson County zoning layer is parcel-based, maintained in a Geographic Information System (GIS), and shall be the basis for the County's official zoning map. Within 30 days of final County Commission action on a zoning map amendment, GIS/Addressing staff will update the digital zoning layer and make the new data available online.²³

On an annual basis, in December, and within 30 days of final County Commission action on a zoning map amendment, a new zoning map will be printed which includes the most up to date base layer data, all approved zoning designations since the last printed map, and an effective date, certified by the President of the County Commission, filed with the County Clerk's office, and a copy provided to the Planning Commission. This annual map update shall not require a public hearing and such certification shall occur administratively.²³

Section 5.4 Residential-Growth District

The Residential-Growth District is intended to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages commercial growth provided that such growth is deemed to be appropriate and compatible by the Development Review System.

The following regulations govern development within the Residential-Growth District.

A. Principal Permitted Uses²³

1. Dwelling, Single Family
2. Dwelling, Duplex
3. Dwelling, Two Family
4. Dwelling, Townhouse
5. Dwelling, Multi-Family
6. Mobile Home Parks (Subject to the Jefferson County Subdivision and Land Development Regulations)
7. Elementary or Secondary school
8. Hospital
9. Vocational and/or Training Facility for Adults¹²
10. Church
11. Day Care Center, Small
12. Day Care Center, Large
13. Essential Utility Equipment
14. Public Safety Facility
15. Publicly Owned Facility²³
16. Accessory Uses
17. Group Residential Facility
18. Home Occupation, Level 1⁸
19. Home Occupation, Level 2⁸
20. Nursing or Retirement Home
21. Model Homes/Sales Office¹²
22. Preschool
23. Wireless Telecommunication Facilities pursuant to Article 4B

B. Minimum Lot Area, Height, and Yard Requirements

1. Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4 – 1 below. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.²³
2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in the Jefferson County Subdivision and Land Development Regulations.^{5,23}

Table 5.4 – 1 Residential Growth District - Height and Yard Requirements^{5, 19, 23}

	Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards (ft)				Maximum Building Height (ft)*
			Front	Side	Street Side	Rear	
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	“	“	“	“	“
	Public/Central water or sewer	20,000 sq. ft. MLA	“	“	“	“	“
	No Public/Central water or sewer	40,000. Sq. ft. MLA	“	“	“	“	“
2	Duplex Dwelling		25	15	15	20	40
	Public/Central water and sewer	3,200 sq. ft. MLA	“	“	“	“	“
	Public/Central water and sewer	7,500 sq. ft. ADU	“	“	“	“	“
	Public/Central water or sewer	10,000 sq. ft. ADU	“	“	“	“	“
3	Townhouse Dwelling		25	12	15	20	40
	Public/Central water and sewer	1,400 sq. ft. MLA	“	“	“	“	“
		3,500 sq. ft. ADU	“	“	“	“	“
			“	“	“	“	“
4	Multi-Family Dwelling	20,000 sq. ft. MLA	25	12	15	30	40
	Public/Central water and sewer	2,000 sq. ft. ADU	“	“	“	“	“

*Subject to Section 9.2

NOTE: ALL detached accessory structures under 144 square feet in size - 6' setback.

**The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside Development or a 100 Year Flood Plain.⁵

C. Commercial Services in Residential Developments²³

1. Commercial services may be included in a residential development providing the commercial uses are intended to serve the residential community proposed and shall relate well to residential areas in terms of pedestrian and vehicular circulation.
2. The gross area for commercial uses shall not exceed 5 acres or 10 percent of the gross tract area, whichever is less.
3. Commercial uses shall not be built or established prior to the residential development unless built in phases consistent with phasing of the residential construction.
4. These uses shall be located within the interior of the project.
5. Commercial uses shall be subject to the Compatibility Assessment Meeting process as outlined in Article 7 of this Ordinance. Any proposed commercial use that is served from a road that is located on the perimeter of the project or on a State Road shall be subject to the entire Development Review Process.⁵

D. Standards for Commercial or Light Industrial Uses²³

1. Commercial or Light Industrial uses are subject to the following access requirements:
 - a. Such uses will not use adjacent residential roads for through traffic; and
 - b. Will connect to principal and major arterial highways as directly as feasible considering access restrictions.⁵
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Section 5.5 Reserved²³

Section 5.6 Industrial - Commercial District²³

The purpose of this district is to provide locations for manufacturing, processing, and commercial uses which may require extensive transportation and central or public water and sewer services. It is not the purpose of this district to encourage the use of land within the district for retail services; however, it is anticipated that there may be areas or locations where retail services can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the district boundary line or the configuration of the property and the relative scale of the project.

A. Principal Permitted Uses²³

1. Light Industrial Uses
2. Heavy Industrial Uses
3. Commercial Uses
4. Day Care Center, Small
5. Day Care Center, Large
6. Home Occupation, Level 1
7. Home Occupation, Level 2
8. Cottage Industry

9. Medical/Dental/Optical Office, Small
 10. Barber/Beauty Shop, Limited
 11. Antique Shop
 12. ATM
 13. Branch Bank
 14. Kennel (subject to the requirements for such use in Article 8)
 15. Dry Cleaner
 16. Florist
 17. Restaurant, Limited
 18. Restaurant, Fast Food, Limited
 19. Retail Food Store, Limited
 20. Veterinary Services
 21. Video Rental Store
 22. Country Inn
 23. Non/Not for Profit Commercial Uses
 24. Non-profit Community Centers
 25. Publicly Owned Facility
 26. Public Safety Facility
 27. Essential Utility Equipment
 28. Wireless Telecommunications Facilities pursuant to Article 4B
 29. Private or Public Shooting Ranges
 30. Cultural Facility
 31. Industrial related accessory uses including residential dwellings including a mobile home on site for a caretaker or watch keeper.
 32. Adult Uses, subject to requirements set forth for such uses in Article 8.
- B. The following uses shall be evaluated by the Development Review System and shall not be located less than 1000 feet from any Residential property line or property listed on the National and State Historic Register/Survey.
1. Bituminous concrete mixing and recycling plants
 2. Concrete and ceramic products manufacture, including ready mixed concrete plants
 3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8)²³
 4. Commercial sawmills
 5. Salvage Yards (subject to the Jefferson County Salvage Yard Ordinance)
 6. Garbage or dead animal reduction or processing

7. Slaughterhouses, Stockyards
8. Acid or heavy chemical manufacturer, processing or storage
9. Cement or lime manufacture
10. Explosive manufacture or storage
11. Foundries and/or casting facilities
12. Mineral extraction, mineral processing
13. Jails and Prisons (subject to requirements for this use in Article 8)²³

C. Height Regulations

No structure shall exceed seventy-five (75) feet in height except as provided in Section 9.2.

D. Yard Requirements as follows: (These requirements are also for an approved commercial or industrial use proposed for any other zone.)^{5, 23}

1. Front yard building setback

Commercial sites	25 feet
Industrial sites	50 feet

2. Side yard building setback

Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet

3. Rear yard building setback

Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet

4. Parking, Driveway and Internal Access Drive Front Setbacks

Commercial sites greater than 1.5 acres	15 feet
Commercial sites 1.5 acres and smaller	15 feet
Industrial sites	25 feet

5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks

Commercial sites greater than 1.5 acres	10 feet
Commercial sites 1.5 acres and smaller	4 feet
Industrial sites*	25 feet

* *Driveways and Internal Access Drives Only. Parking must abide by buffer requirements.*

6. Compliance with Section 4.11 and Section 8.9A(1-9)^{7, 23}

7. Distance Requirements

- a. Commercial shall comply with Section 4.6B
- b. Industrial shall comply with Section 4.6A^{7, 23}

E. Lot Area

A minimum lot size of three acres shall be required for any industrial use unless the site is located in an approved Industrial Park.²³

F. Commercial and Industrial Design Standards

1. Commercial Design Standards²³

- a. Landscaping, screening, buffer yards, and setbacks for commercial development are subject to Section 4.11.
- b. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.
- c. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11E.
- d. Permeable areas of the site shall be planted with ground cover, shrubs and trees.
- e. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.²³
- b. Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11E.
- c. Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

Section 5.7 Rural District²³

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not intended to be served with public water or sewer facilities, although in situations where the Development Review System is utilized, it may be. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Development Review System does allow for higher density by issuance of a Conditional Use Permit.^{8, 23}

A. Principal Permitted Uses²³

1. Agricultural uses as defined in Article 2⁷
2. Church
3. Elementary or Secondary School
4. Vocational and/or Training Facility for Adults^{12, 20}
5. Dwelling, Single Family
6. Mobile Home (subject to the Jefferson County Subdivision and Land Development Regulations)
7. Dwelling, Two-Family⁸
8. Accessory Agricultural Dwelling Unit²⁶
9. Cottage Industry⁸
10. Home Occupation, Level 1⁸
11. Home Occupation, Level 2⁸
12. Day Care Center, Small^{12, 11, 15}
13. Public Safety Facility
14. Cultural Facility
15. Farm Market (subject to the requirements for such a use in Article 8)⁸
16. Horticultural nurseries and commercial greenhouses
17. Hospital
18. Essential Utility Equipment
19. Accessory uses
20. Group Residential Facility
21. Bed and Breakfast (subject to the requirements for such a use in Article 8)^{7, 15}
22. Publicly Owned Facility⁸
23. Wireless Telecommunications Facilities pursuant to Article 4B.¹⁰
24. Model Homes/Sales Office (subject to the requirements for such a use in Article 8)¹²

- 25. Non-profit Community Centers¹⁵
- 26. Landscaping business outside of Planning Commission approved subdivisions¹⁵
- 27. Veterinary services outside of Planning Commission approved subdivisions¹⁵
- 28. Feed and/or Farm Supply Center
- 29. Agricultural Repair Center¹⁵
- 30. Kennels (subject to the requirements for such a use in Article 8)¹⁵
- 31. Hunting, Shooting, Archery and Fishing Clubs (subject to the requirements for such a use in Article 8)²⁰
- 32. Agricultural Tourism
- 33. Farm Vacation Enterprise
- 34. Farm Brewery, Winery, or Distillery²⁶
- 35. Rural Reception/Event Facility or Rural Reception/Event Facility, Small (subject to the requirements of 10.5B)²⁶
- 36. Rental of Existing Farm Building, for commercial storage (Structure must have existed for 5 years)
- 37. Preschool

B. Minimum Lot Area, Lot Width and Yard Requirements²³

- 1. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.
- 2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.⁵

Table 5.7-1 Lot Area, Width, and Yard Requirements for Principal Permitted Uses in the Rural District

Land Use	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	25	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

- 3. Lot area for schools (K-12) as shown in Table 5.7-1 shall be increased by one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewage treatment plant and retention ponds are required, acreage shall be increased accordingly.^{1, 23}

4. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.²³
5. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.²³

C. Height Regulations

No structure shall exceed thirty five (35) feet in height as provided in Section 9.2.

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D1, 5.7D2 or 5.7D3 below. A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density.⁸

1. A property owner may create one (1) lot for every fifteen (15) acres with a minimum lot size of three (3) acres.^{17, 21}
 - a. Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
 - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}
2. Clustering
 - a. Purpose and Intent
 - i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.
 - ii. To provide for a well planned development while minimizing the use of prime agricultural land.
 - b. Requirements
 - i. One (1) lot may be subdivided for every ten (10) acres.^{17, 21, 23}
 - (a) Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
 - ii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.^{17, 21}
 - (a) Setbacks shall be 25' front, 12' sides and 20' rear.
 - (b) All clusters of three (3) or more lots shall be served by an internal road.²³
 - (c) Clusters of three (3) or more lots shall not be along an existing public road.
 - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}
 - (e) Maximum lot size shall be 3 acres.^{17, 21}

iii. Procedures²³

- (a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.^{17, 21, 23}
 - (a) The Staff will have final approval over the location layout of the proposed clustering of lots. The Staff shall consider the following when reviewing concept plans:
 - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
 - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
 - (b) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.²³
3. Not in addition to Subsections 5.7D1 and 5.7D2 above, any property that was a lot of record as of October 5, 1988 may create 3 total lots (including the residue) during any five year period. Applications which exceed this number during any five year period shall be processed utilizing the Development Review System. Subdivisions involving transfers of land between parent and child shall not be subject to this section. All lots that qualify under this section must meet subdivision requirements. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. Parent to child or child to parent lots are not entitled to further subdivide except as another parent to child or child to parent transfer.
4. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.

Section 5.8 Residential/Light Industrial/Commercial District¹

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.²³

A. Principal Permitted Uses²³

1. Light Industrial Uses
2. Commercial Uses
3. Medical/Dental/Optical Office, Small
4. Barber/Beauty Shop, Limited
5. Antique Shop
6. ATM
7. Branch Bank
8. Kennel (subject to the requirements for such use in Article 8)
9. Dry Cleaner
10. Florist
11. Restaurant, Limited
12. Restaurant, Fast Food, Limited
13. Veterinary Services
14. Video Rental Store
15. Country Inn
16. Dwelling, Single Family
17. Dwelling, Two Family
18. Dwelling, Duplex
19. Dwelling, Townhouse
20. Dwelling, Multi-Family
21. Mobile Home Parks
22. Home Occupation, Level 1
23. Home Occupation, Level 2
24. Cottage Industry
25. Elementary or Secondary School
26. Hospital
27. Vocational and/or Training Facility for Adults¹²
28. Church
29. Cultural Facility

30. Day Care Center, Small
31. Day Care Center, Large
32. Essential Utility Equipment
33. Publicly Owned Facility
34. Public Safety Facility
35. Accessory Uses
36. Group Residential Facility
37. Nursing or Retirement Home
38. Model Home/Sales Office (subject to requirements for this use in Article 8)¹²
39. Non-Profit Community Center
40. Non/Not for Profit Commercial Uses¹²
41. Preschool
42. Wireless Telecommunications Facilities pursuant to Article 4B

B. Standards²³

1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.
2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.²³

C. Other Regulations²³

1. All sections of this Ordinance applying to the residential growth district with the exception of Section 5.4A will apply to residential uses in this District.
2. All commercial uses must conform with the commercial design standards and yard requirements cited in Sections 5.6D1-6 and 4.6B. All industrial uses must conform with the Industrial Design Standards and yard requirements cited in Sections 5.6D1-6 and 4.6A. Either use must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.^{5, 7, 23}
3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area) shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive. This requirement shall not apply to a building located within a shopping center shown on an approved site plan.^{23, 26}
4. Proposed uses in this zone do not have to comply with the distance requirements in Sections 4.6A-B if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.⁷

Section 5.9 Reserved²³

Section 5.10 Village District^{8, 23}

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries.

A. Principal Permitted Uses²³

1. Dwelling, Single Family
2. Dwelling, Duplex
3. Dwelling, Two Family
4. Home Occupation, Level 1
5. Home Occupation, Level 2
6. Cottage Industry
7. Public Safety Facility¹²
8. Essential Utility Equipment
9. Medical/Dental/Optical Office, Small¹²
10. Group Residential Facility
11. Cultural Facility¹²
12. Wireless Telecommunications Facilities pursuant to Article 4B

B. Conditional Uses²³

The following uses may be approved after being evaluated by the Development Review System (Article 7). The LESA point system would not apply.

1. Barber/Beauty Shop, Limited
2. Dry Cleaners
3. Video Rental Stores
4. Retail Food Store, Limited
5. Church
6. Day Care Center, Large
7. Country Inn
8. Bed and Breakfast (subject to the requirements for such a use in Article 8)
9. Restaurant, Limited
10. ATM
11. Branch Bank
12. Antique Shop
13. Florist
14. Restaurant, Fast Food, Limited¹²

C. Setbacks

1. Residential

a. Section 9.7, Residential Growth standards²³

2. Commercial

a. 25' front, 10' side and 40' rear

b. Setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood.²³

3. Existing Structures

a. As exists not less than 6' on sides and rear.

D. Commercial uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line.

E. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.²³

F. There will be no outdoor storage of equipment, materials or other stock.

G. Parking requirements may be modified as a result of a compatibility meeting.²³

H. Other Requirements²³

1. With the exception of setback requirements specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

ARTICLE 6: DEVELOPMENT REVIEW SYSTEM

Section 6.1 Development Review System (DRS)

The purpose of the Development Review System (also referred to as DRS) is to assess a particular site's development potential based on criteria which determine the agricultural longevity of the parcel in combination with the presence of and compatibility with public services adjacent to and in close proximity to the site. The DRS is a numerical rating system designed to function within the framework of the traditional zoning districts referenced in this ordinance. All commercial uses and those uses which are not permitted in zoning districts shall be governed by the procedures set forth in Article 7 and all sections that reference requirements to obtain a conditional use permit.

It shall be unlawful to commence construction of any commercial uses or uses which are not permitted uses in a zoning district without obtaining conditional use permit approval.

Section 6.2 Issuance of a Conditional Use Permit

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district. Upon receipt of an application, the site will be evaluated by the Departments of Planning and Zoning Staff using the Development Review System. The two major components of the System, the Soils Assessment and the Amenities Assessment, consist of criterion which each possess a numerical value that is weighted relative to its importance as an indicator of a parcel's agricultural significance or its development potential. The total numerical value of the combined criteria is 100 points: the Soil Assessment contributes 25 points and the Amenities Assessment contributes 75 points. The highest total numerical value of the combined criteria indicates that a parcel is more suitable for agriculture, whereas, the lowest numerical value indicates that development is more appropriate for the site. A score of 60 points or less advances the application to the Compatibility Assessment as provided in Section 7.6.^{14, 17, 21, 23}

Section 6.3 The Soils Assessment

The Soils Assessment evaluates a particular parcel for development based on the soil types it possesses. The following soils types will be combined into soil groups.

Soils Type Data
Table 6.3 – 1 Soil Types and Agricultural Value Groups²³

Map Symbol	Soil Series	Agricultural Value Group
AmB	Airmont, stony	5
AxC	Airmont, v. rocky	7
BaC	Bagtown, v. rocky	6
BaD	Bagtown, v. stony	6
BgE	Bagtown, x. stony	8
BnF	Bagtown, rubbly	9
BoF	Bagtown	9
Bp	Bigpool	2
CaB	Carbo, v. rocky	4
CaC	Carbo, v. rocky	5
CbC	Carbo-Rock outcrop	6
CbD	Carbo-Rock outcrop	6
CdD	Cardova	6
CmB	Clearbrook	6
CrB	Clearbrook-Berks	6
Cs	Combs	2
DsB	Downsville	3
DsC	Downsville	4
DsD	Downsville	5
DsE	Downsville	7
DyB	Duffield-Ryder	2
DyC	Duffield-Ryder	4
DyD	Duffield-Ryder	5
DyE	Duffield-Ryder	7
EgB	Edgemont	3
EgC	Edgemont	4
EgD	Edgemont	5
Fa	Fairplay	4
Fk	Funkstown	1
HbB	Hagerstown	2
HbC	Hagerstown	4
HcC	Hagerstown	4
HeB	Hagerstown, v. rocky	3
HeC	Hagerstown, v. rocky	4
HgE	Hagerstown-Opequon-RO	8
HrB	Hagerstown-Rock outcrop	6
HrC	Hagerstown-Rock outcrop	6
Hy	Holly	6
La	Lappans	1
Ln	Lindside	3
MhA	Monongahela	3
MoB	Monongahela	3
MxC	Myersville-Catoctin, stx	7
MxD	Myersville-Catoctin, stx	7
OaB	Oaklet	3
OaC	Oaklet	4

Map Symbol	Soil Series	Agricultural Value Group
OeB	Oaklet, v. rocky	3
OeC	Oaklet, v. rocky	4
OkC	Oaklet, v. rocky	4
OrB	Oaklet-Rock outcrop	6
OrC	Oaklet-Rock outcrop	6
PmB	Poplimento	2
PmC	Poplimento	4
PpB	Poplimento, v. rocky	3
PpC	Poplimento, v. rocky	4
PpD	Poplimento, v. rocky	5
PrC	Poplimento-Rock outcrop	6
Qm	Quarry	10
ReF	Rock outcrop-Opequon	9
RpC	Ryder-Poplimento	4
RrC	Ryder-Poplimento, v. rocky	4
RrD	Ryder-Poplimento, v. rocky	5
Sp	Speedwell	1
SrF	Stumptown-Rock outcrop	9
SvF	Sylvatus	9
SyF	Sylvatus-Rock outcrop	9
ThC	Thurmont	4
ThD	Thurmont	5
Tm	Toms	3
TxC	Trego, x. stony	7
TxD	Trego, x. stony	7
Ua	Udorthents	10
Ub	Urban land	10
Uu	Urban land - Udorthents	10
UwC	Urban land-Hagerstown	10
VeB	Vertrees	2
VeC	Vertrees	4
VrB	Vertrees, v. rocky	3
VrC	Vertrees, v. rocky	4
VsC	Vertrees, v. rocky	4
VtB	Vertrees-Rock outcrop	6
VtC	Vertrees-Rock outcrop	6
VtD	Vertrees-Rock outcrop	6
W	Water	10
WbC	Weikert-Berks	6
WbD	Weikert-Berks	6
WkF	Weikert-Berks	9
WnC	Weverton, v. stony	7
WoE	Weverton-Rock outcrop, stv	8
WrB	Wharton-Clearbrook	4
WrC	Wharton-Glearbrook	4
WtB	Whiteford	3
WtC	Whiteford	4

The points for the soils assessment are computed as follows:⁵

- A. Determine the area of each soil type on the property according to the map symbols.
- B. Multiply the soil type areas times the Relative Value for the soil type taken from the List of Soil Groups and Relative Values.
- C. Sum the products of the multiplication of Area times Relative Value to obtain a total for the property.
- D. Divide the total of the multiplication products by the Total Area of the property to obtain the Weighted Relative Value.
- E. Multiply the Weighted Relative Value times the 25 Soil Assessment Points. Then divide the product by 100 to obtain the allowable number of Soil Assessment Points.

Soil groups take into account a rating of best and worst individual soil types. The following 10 soil groups have been developed from the Jefferson County Soil Survey and have been assigned relative values based on their agricultural productivity (see note).⁵

Table 6.3 – 2 List of Soil Groups and Relative Values²³

<u>Agricultural Group</u>	<u>Relative Value</u>
1	100
2	87
3	78
4	76
5	65
6	53
7	0
8	0
9	0
10	0

The soil groups and their corresponding values will be incorporated into a work sheet to be used to evaluate the potential agricultural value of each site.

If 50% to 65% of the total soils are rated severe for home construction or street construction, by the Jefferson County Soil Survey, add 5 points to the Land Evaluation value of the work sheet.

If over 65%, add 10 points to the Land Evaluation value of the work sheet.

The soils assessment shall not exceed 25 points.

NOTE: The development of soil groups have been determined by the USDA Natural Resources Conservation Service using corn as the indicator crop.^{1, 17, 21, 23}

Section 6.4 Amenities Assessment^{17, 21}

The amenities assessment of the Development Review System provides indicators of a site’s agricultural viability or its development potential. The following criterion are weighted with a high numerical value assigned if the site is more agriculturally viable and a low numerical value assigned if development would be more appropriate for the parcel. The procedure for the compatibility assessment is contained in Article 7.

For nonresidential projects, there is no impact on Proximity to Schools or Parks and Recreation. Therefore, these points have been added to Size of Site, Highway Problem Areas, and Roadway Adequacy as shown.

A. Size of Site⁴

This criterion reflects the importance of preserving large blocks of land as a primary goal of agricultural preservation; therefore, acreage shall be contiguous. For nonresidential projects, the points on the right will be applied.

<u>Acres</u>	<u>Residential Project Points</u>	<u>Nonresidential Project Points</u>
0 to 40 acres	0 points	0 points
40 to 80 acres	3 points	5 points
Over 80 acres	6 points	10 points

B. Adjacent Development⁷

This criterion assesses percentage of adjacent land that which is developed or under development. Development and development pressure includes: a subdivision of more than 5 lots, lots of less than 5 acres and all commercial or industrial uses. This measurement shall be by a computation of linear feet around the boundary of the property in question. Agricultural related industry or uses shall be considered “no development pressure.” Adjacent property includes land separated by roads, rights-of-way, railroads, and other easements. After the percentage of land under development pressure is calculated the remaining percentage of adjacent property may be considered as property where there is no development pressure. The points shall be assessed as follows:

For the property not under development pressure or not developed:

<u>Percent</u>	<u>Points</u>
0 to 40 percent	0 points
40 to 65 percent	5 points
65 to 100 percent	10 points

C. Distance to Growth Corridor

The distance to the growth corridor relates to the distance of the subject parcel to the boundaries of the Residential-Growth District or the Residential-Light Industrial-Commercial District adopted within this Ordinance. Measuring shall be by the closest linear distance from the property to the closest point of either of the aforementioned growth districts.

<u>Distance</u>	<u>Points</u>
Less than .25 mile	0 points
.25 mile to .75 mile	6 points
Over .75 mile	12 points

D. Comprehensive Plan Compatibility

This criterion shall determine whether site development is supportive of or has a negative impact on the following elements of the Comprehensive Plan: Highway Problem Areas, Compatibility of site development with designated parks or proposed parks and recreational areas and percentage of proposed affordable housing.

Highway Problem Areas

<u>Number of Areas</u>	<u>Residential Project Points</u>	<u>Nonresidential Project Points</u>
0 problem areas	0 points	0 points
1 problem area	3 points	6 points
2 problem areas	6 points	12 points

Highway Problem Area Points will be assessed as follows:

If the site is accessible to the closest ‘in-county’ incorporated area (using the most direct vehicular route) and an ‘out-of-county’ market area (Frederick, MD; Winchester, VA; Inwood, WV; Martinsburg, WV) (using the most direct vehicular route) without traveling through a Highway Problem Area as shown on the Comprehensive Plan Highway Problem Area Map the project would score a 0 for this criterion.²³

If the site is accessible to either one or the other without traveling through a Highway Problem Area the project would score a 3 for this criterion.²³

If a Highway Problem Area intersects the most direct vehicular route to the closest in-county incorporated area and the closest out-of-county market area, the project would score a 6 for this criterion.²³

Affordable Housing

<u>Percent</u>	<u>Points</u>
25% affordable housing is proposed	0 points
10% affordable housing is proposed	3 points
No affordable housing is proposed	6 points

Park/Recreational

<u>Proposal</u>	<u>Points</u>
Proposing a 5 acre park or 10% of gross acreage (whichever is greater) with amenities and land dedicated to and accepted by Jefferson County Parks and Recreation Commission	0 points
Located within 2 miles from an area marked on the Comprehensive Plan Parks and Recreation Map	3 points
Located farther than 2 miles from an area marked on the Comprehensive Plan Parks and Recreation Map	6 points

Distances for Parks and Recreation will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest park or recreation area as shown on the Comprehensive Plan map of Parks and Recreation Areas.

For nonresidential projects, parks and recreation points will be reassigned to Highway Problem Areas: 0, 6, and 12.

E. Proximity to Schools⁴

<u>Distance</u>	<u>Residential Project Points</u>	<u>Nonresidential Project Points</u>
Less than 2 miles	0 points	For Nonresidential projects points are reassigned to Roadway Adequacy and Size of Site.
2 to 4 miles	4 points	
Over 4 miles	8 points	

The purpose of assessing the proximity of schools to new development is to avoid excessive busing of students. Distances for schools will be measured by vehicular miles from a subdivision entrance by the most direct route to the entrance of the appropriate school.

For nonresidential projects the proximity to schools points will be reassigned to roadway adequacy: 0, 10, and 16 and size of site: 0, 5, and 10.

F. Roadway Adequacy⁴

<u>Road Type</u>	<u>Residential Project Points</u>	<u>Nonresidential Project Points</u>
Primary or Four Lane Road	0 points	0 points
Secondary	6 points	10 points
Local Service	12 points	16 points

Point values for this criterion are assigned based on the designation of the Comprehensive Plan Highway Classification map. Section 6.5D evaluates the operational proximity of the site to designated highway problem areas.

G. Emergency Service Availability

The purpose of this criterion is to assess the distance of potential site development to emergency services: fire department (4.5 points) and ambulance service (4.5 points).

Distance to Emergency Services

<u>Distance to Fire</u>	<u>Points</u>	<u>Distance to Ambulance</u>	<u>Points</u>
Less than 2 miles	0 points	Less than 2 miles	0 points
2 to 5 miles	2.5 points	2 to 5 miles	2.5 points
Over 5 miles	4.5 points	Over 5 miles	4.5 points

Distances for Fire and Ambulance will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest entrance of the appropriate fire or ambulance station.

Section 6.5 Computation of Soils/Amenities Assessment

- A. At the completion of evaluation of a site with the Soils and Amenities Assessment Criteria, there should be a total number of points awarded to each Assessment. Since the Soils Assessment utilized was based on a 100 points relative point value in itself, a minor conversion must be made to the total relative value. The Development Review System allots a maximum of 25 points to the Soils Assessment therefore the conversion to be made is expressed as follows: $100 \times .25 = 25$ pts. (For example, if a parcel receives the maximum point value of 100 points, in actuality only 25 points will be awarded for the Soils Component of the Development Review System.)
- B. The Amenities Assessment has a 75 point maximum point value.
- C. The combined maximum total for both Assessments is 100 points. The most agriculturally significant parcel would rate 100; the most developable parcel would rate 0. A total of 60 points or less advances the application to the Compatibility Assessment Meeting.^{14, 17, 21}
- D. The Soils Assessment of a proposed development is not applied when the development proposal is located within the Residential/Growth District or the Industrial/Commercial District.
- E. Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting.^{17, 21}

ARTICLE 7: PROCEDURAL REQUIREMENTS FOR REVIEW

Section 7.1 Purpose

The Procedural Requirements section of the Ordinance details the procedures to review development utilizing the zoning district regulations and/or the Development Review System. All plans and development approved shall comply with the standards contained in this Article.²³

Section 7.2 Zoning District Principal Permitted Uses

All uses listed as principal permitted uses within a zoning district shall be developed subject to the Jefferson County Subdivision and Land Development Regulations.²³

Section 7.3 General Development Review System Requirements

- A. If a proposed use is not listed as a principal permitted use in a zoning district, the applicant must submit a Development Review System application subject to the requirements of Section 7.4.²³
- B. Filing an application with the Planning and Zoning Staff is the first of several stages within the Development Review System. Those stages are listed below.
 - 1. Filing the application
 - 2. Departments of Planning and Zoning Staff Evaluation of the Development Review System²³
 - 3. Compatibility Assessment Meeting
 - 4. Public hearings
 - 5. Board of Zoning Appeals decision on the issuance or denial of the Conditional Use Permit^{2, 23}

Section 7.4 Filing the Application

- A. The owner or the owner's agent proposing to develop land that is not a principal permitted use in the district where it is located shall consult with the Departments of Planning and Zoning. Fifteen (15) copies of a sketch plan detailing the project shall be submitted with an application and fifteen (15) copies of the support data that will enable the project to be evaluated by the Development Review System, at least ten (10) days prior to the scheduling of a Compatibility Assessment Meeting. This meeting will occur within thirty (30) days from the date that the meeting is scheduled by the staff. Copies of the application, sketch plan, and development review data shall be available for public review in the Planning Office at such time as the proposed development is advertised in the newspaper.^{1, 2, 7, 17, 21, 23}
- B. The sketch plan shall include the entire original parcel as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines, as shown on the appropriate U.S.G.S. Topographic Quadrangle Map or other data source approved by the Departments of Planning, Zoning, and Engineering, should be superimposed on the sketch plan. The source of all contour lines shall be noted on the plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarries shall be delineated.²³

- C. The sketch plan should be accompanied by a tract location map; a soils report indicating the soil types on the parcel and a map delineating the boundaries of each soil type; and the necessary support data, to evaluate the site by the Development Review System, listed below.
- D. Support Data
1. Name and address of owner/developer.
 2. Name and address of contact person.
 3. Type of development proposed.
 4. Acreage of original tract and property to be developed.
 5. General description of surface conditions (topography).
 6. Soil and drainage characteristics.
 7. General location and description of existing structure.
 8. General location and description of existing easements or rights-of-way.
 9. Existing covenants and restrictions on the land.
 10. Intended improvements and proposed building locations including locations of signs.
 11. Intended land uses.
 12. Earth work that would alter topography.
 13. Tentative development schedule.
 14. Extent of the conversion of farm land to urban uses.
 15. Affected wildlife populations.
 16. Ground water and surface water and sewer lines within 1320 feet.
 17. Distance to fire and emergency services that would serve the site.
 18. Distance to the appropriate elementary, middle, and high school.
 19. Traffic characteristics - type and frequency of traffic; adequacy of existing transportation routes.
 20. Demand for school services created by this development.
 21. Proximity and relationship to historic structures or properties within two hundred (200) feet.
 22. Proximity to recreational facilities.
 23. Relationship of the project to the Comprehensive Plan.
- E. The developer shall submit a list of all property owners, and their addresses, adjacent to and confronting the property which is to be developed.
- F. Payment of fees - Within one week of the submittal of a Development Review System application, all required fees must be paid.²³
- G. The Zoning Administrator shall determine if the sketch plan and support data are adequate.^{8, 17, 21, 23}

Section 7.5 Planning and Zoning Staff Evaluation of the Development Review System

- A. The staff will evaluate all applications for the proposed land use in conjunction with Article 6 and all other applicable sections of the Zoning and Land Development Ordinance and other pertinent ordinances governing development in the County.²³
- B. Staff will notify the adjacent and confronting property owners of the date, time, and place of the Compatibility Assessment Meeting by registered mail. Notification requirements of Section 3.4A.3.b shall apply.^{1, 23}
- C. A North American Industrial Classification System (NAICS) code will be assigned to the proposed project. Once the classification is agreed upon, the NAICS code shall be binding. Any change of use shall require submittal of a new application in accordance with Article 7.²³

Section 7.6 Compatibility Assessment Meeting

- A. The Compatibility Assessment Meeting allows the adjacent and confronting property owners and all other interested parties the opportunity to hear the Applicant's presentation and proposal. The presentation will address the compatibility of the project to the existing areas adjacent to the site. Following the Applicant's presentation, attendees may ask questions or provide comments. Any discussion shall be limited to the proposal's compatibility as presented rather than whether the site should be developed by any other use. At the end of the discussion, the staff shall summarize the positions presented by those in attendance. If the majority of those in attendance are in agreement that the staff record is accurate, the meeting will end. If there is need for clarification of a particular issue the staff will allow additional time for clarification before ending the meeting.²³
- B. During the Compatibility Assessment Meeting, those who participate should address, but are not limited to, the following criteria to determine compatibility of the proposed project:
 - 1. Adopted Federal, State and local regulations;
 - 2. Similarity of proposed development type (residential, commercial, industrial, agricultural, etc.) to existing development types;
 - 3. In a residential project, similarity of the density of the proposed development to existing density in the neighborhood;
 - 4. Adequacy of roads and highways to accommodate traffic to be generated by the development, with particular attention to dangerous intersections designated by the State Roads Commission or the State Police;
 - 5. Present and future transportation patterns in the area;
 - 6. Consistency with land use plans and regulations of incorporated municipalities immediately adjacent to the proposed development;
 - 7. Any variance which is known to be required at the time of submittal;
 - 8. The relationship of the proposed change to the adopted Comprehensive Plan; and
 - 9. All items submitted with the application.^{17, 21}

- C. Staff shall monitor and record the meeting. A time limit, as referred to in Section 7.7C may be imposed if there are a large number of speakers. Staff may comment on the proposed development's conformance to applicable State, Federal and Local codes.^{17, 21, 23}
- D. If not all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, a public hearing of the Board of Zoning Appeals will be required. Staff shall prepare a report summarizing the developer's proposal, the agreed upon conditions, and any other pertinent data and will advertise for the public hearing. A public hearing in conformance with this article will be conducted no fewer than 30 days but no more than 60 days from the date of the Compatibility Assessment Meeting. At the public hearing, the Board shall take action as described in Section 7.6F.^{1, 17, 21, 23}
- E. If all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, no public hearing shall be required. At the next Board of Zoning Appeals meeting, the Board shall take action as described in Section 7.6F.^{2, 17, 21, 23}
- F. The Board of Zoning Appeals shall issue, issue with conditions, or deny the conditional use permit. The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application, Board of Zoning Appeals resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed.^{2, 17, 21, 23}
- G. A Conditional Use Permit shall be valid for the time period identified in Section 3.2G of this Ordinance.²³

Section 7.7 Public Hearings for Development Review System²³

- A. Unless otherwise superseded by the Board of Zoning Appeals Rules of Procedure, a public hearing for a Development Review System application shall be conducted in accordance with this section.
- B. The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood.^{1, 17, 21}
- C. All public hearings shall have time limits allotted to those who speak, as follows: the applicant or agent shall have 30 minutes for a presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the applicant or agent is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Board of Zoning Appeals Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Board shall announce any change to this section at the beginning of the hearing.^{17, 21}
- D. Notification requirements of Section 3.4A.3(b) apply.
- E. The Board of Zoning Appeals shall render a decision no more than 60 days after the public hearing.^{17, 21}

ARTICLE 8: SUPPLEMENTAL USE REGULATIONS²³

Section 8.1 Adult Use Requirements^{16, 23}

Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District under the following conditions:

- A. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential-Growth, Village or Residential Growth-Light Industrial-Commercial Zoning District not separated from the subject property by a public road or railroad right-of-way.
- B. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.
- C. All elements of any use described in this section, including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right-of-way.

This provision does not apply to any specific existing use that legally qualifies as a nonconforming use; provided, however, that an existing nonconforming use cannot add any of the uses described in this section to their operations as existing on May 1, 2003.

Section 8.2 Barns and Feeding Pens²³

Barns and feeding pens must be set back a minimum of 75' from a residential district, a lot with a residential use, a church, a school, or an institution for human care.

Section 8.3 Bed and Breakfast²³

A bed and breakfast may contain up to 7 bedrooms, and may conduct up to 4 receptions per year, with 1 tent per reception. Breakfast is the only meal served, and is served only to overnight tenants and their guests. An owner or designated caretaker must reside on the premises while the bed and breakfast is occupied. Up to 2 bedrooms may be located in an accessory dwelling unit, provided that the total number of bedrooms associated with the land use does not exceed 7.

Section 8.4 Kennels²³

All portions of a Kennel land use must be buffered pursuant to Article 4 and set back at least 500 feet from any property that contains a residence. Kennels cannot be located within a Planning Commission approved residential subdivision.¹⁵

Section 8.5 Farm Brewery, Farm Winery, or Farm Distillery^{23, 26}

- A. All structures associated with the operation of a farm brewery, farm winery, or farm distillery may not exceed 20,000 square feet.²⁶
- B. No sale of alcohol for onsite consumption is permitted.²⁶
- C. The use may include facilities for fermenting, processing, bottling, packaging, and storage of products produced on-premises²⁶
- D. Permitted accessory uses include the following:²⁶
 - 1. Incidental tastings of products produced on-premises.
 - 2. Incidental food sales associated with tastings, not including a restaurant.
 - 3. Sales of packaged products produced on-premises.
 - 4. Sales of novelty and gift items associated with products produced on-premises.
- E. Twenty-five percent of the raw products for a product containing alcohol that is produced by a farm brewery, farm winery, or farm distillery must be produced (i.e. grown and harvested) on the premises of the farm brewery, farm winery, or farm distillery. No more than twenty-five percent of any produce utilized for farm wineries and farm distilleries shall originate from any source outside of West Virginia.²⁶
- F. Production limits are as follows:²⁶
 - 1. A farm brewery may produce annually up to 5,000 barrels of beer (155,000 gallons).
 - 2. A farm winery may produce annually up to 50,000 gallons of wine and similar products.
 - 3. A farm distillery may produce annually up to 20,000 gallons of alcoholic liquor.
- G. Buildings located on the premises may exceed the square footage limit of Section 8.5A provided that the total building area dedicated to the use does not exceed to total permitted square footage. This limit applies to the use of space for distilling, bottling, sales, administrative offices, and customer area, and does not apply to a barn, greenhouse or similar structure that is directly related to agricultural production.²⁶

Section 8.6 Farm Market²³

The floor area of a farm market may not exceed 1,500 square feet, a front yard setback of fifty feet (50) from the street right-of-way must be maintained, and off street parking must be provided.

Section 8.7 Jails and Prisons²³

Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial-Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance.⁵

Design Standards for Jails, Prisons and/or Penal Institutions are as follows:⁵

- A. All jails shall have direct access to a primary road as defined by the Jefferson County Comprehensive Plan. Such road shall have a level of service no worse than Level C.

B. No residential subdivisions, schools, churches or institution for human care shall be within 2000' of the subject property. However, this does not prevent such use from locating within 2000' of a jail, prison or penal institution.

C. Setbacks:

1. Front 1,000 Feet
2. Sides 1,500 Feet
3. Rear 1,500 Feet

Section 8.8 Hunting, Shooting and Fishing Clubs²³

A. Hunting, Shooting and Fishing Clubs may include the following accessory uses:

1. Private restaurant that seats no more than 80 patrons that are members and guests of members.
2. Conference and banquet facilities to serve no more than 250 people in which a member rents the facility. Events which are accessory uses other than hunting, shooting, archery and fishing, cannot exceed more than 16 per year.
3. Private lodge facilities of up to 50 units that serve members and guests.²⁰
4. Shooting ranges for use of members and guests of members.

B. Standards for Hunting, Shooting and Fishing Clubs²⁰

1. 75 foot setback for all structures and parking.
2. 150 yard setback for all shooting facilities.
3. Height
 - a. As is for conversion or reconstruction that does not exceed 135 percent of the original footprint of existing structures
 - b. 35 feet for new structures
4. Landscaping requirements of this Ordinance apply, with the following exception:
 - a. Perimeter landscaping shall be as approved by staff in order to preserve existing vegetation.
5. Minimum of 150 acres under common ownership.

C. Special Exceptions for Hunting, Shooting and Fishing Clubs²⁰

1. Limits exceeding requirements outlined above can be increased with Board of Zoning Appeals approval provided that the Board of Zoning Appeals find that the increase is compatible with the neighborhood after taking into consideration neighborhood character, traffic, and buffering. Such decision shall be rendered after a public hearing as outlined in the Board of Zoning Appeals Rules of Procedure.

Section 8.9 Industrial and Commercial Uses²³

A. Industrial and commercial uses in all districts shall comply with the following standards:

1. Noise

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.

<u>Sound Measured In</u>	<u>DAY</u>	<u>NIGHT</u>
	<u>7 AM - 6 PM</u>	<u>6 PM - 7 AM</u>
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)
Residential Uses in R.L.C. District	65 dB(A)	55 dB(A)
Commercial Uses	70 dB(A)	60 dB(A)
Light Industrial Uses adjacent to noise source	85 dB(A)	80 dB(A)

The following sources of noise are exempt:

- a. Transportation vehicles not under the control of the industrial use.
- b. Occasionally used safety signals, warning devices and emergency pressure relief valves.
- c. Temporary construction activity between 7:00 a.m. and 7:00 p.m.

2. Odor

No operation shall result in the creation of odors of such intensity and character as to be detrimental to the health and welfare or the public or which interferes with the comfort of the public. Odor thresholds shall be in accordance with ASTM d139-57 “Standard Method for Measurement of Odor in Atmospheres (Dilution Method)” or its equivalent.

Odorous material released from any operation or activity shall not exceed the odor threshold concentration beyond the state line, measured either at ground level or habitable elevation.

3. Smoke

No smoke, dust, fumes, or particulate matter shall be perceptible at any lot line. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted by the State of West Virginia.

For the purpose of grading the density or equivalent capacity of smoke, the Ringelman Chart as published by the United States Bureau of Mines shall be used.

The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited.

The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation, or activity except solid waste incinerators within the boundaries of any lot, will not exceed the levels set forth below.

Particulate matter emission from materials or products subject to becoming wind borne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, etc.

4. Ambient Air Quality Standard

Particulate Matter

Suspended

Annual Arithmetic Mean ug/m	65
24-hour Maximum b, ug/m	140

Settleable

Annual Arithmetic Average, mg/cm/	/month 0.35
Monthly Maximum	0.7

5. Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at any point beyond the lot line nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration-measuring equipment.

6. Glare and Heat

No direct or sky-reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. There shall be no emission or transmission of heat or heated air so as to be discernable at the lot line.

7. Toxic Matter

The ambient air quality standards for the State of West Virginia shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

The release of airborne toxic matter will not exceed one-thirteenth of the threshold limit value across lot lines.

Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry derivatives; pyrotechnics and fireworks such as acetylates, tetrazoles, and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than thirty-five (35) per cent; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

The storage, utilization or manufacture of materials or products which decompose by detonation is prohibited.

8. Fire Hazards

The storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire resistive construction of no less than two (2) hours and protected with an automatic fire extinguishing system.

The total capacity of flammable liquids and gasses shall not exceed those quantities permitted in the following Table for each of the industrial districts:

<u>CAPACITY</u>	<u>STORAGE</u>
Liquids	60,000 gallons
Gasses	
- Above ground	150,000 SCF
- Below ground	300,000 SCF

SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches Mercury.¹

The following setback requirements will apply to the location of any container which holds flammable liquids or gasses:

Container Setback from Lot Lines

Water Capacity per Container (Gallons)	Containers		Between Above Ground Containers (Feet)
	Underground (Feet)	Above Ground Containers (Feet)	
0 to 2,000	25	25	3
2,000 to 30,000	50	50	5
30,000 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

9. Frontage Road

Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

10. Landscape Buffer

A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer.
(See diagram)

ROW LIMITS OF
CONTROLLED ACCESS
HIGHWAY



- * Maximum 60' easement or dedication for frontage road
- ** 50' landscaped buffer strip
- *** Setbacks

This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.⁵

Section 8.10 Model Homes/Sales Offices²³

Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.^{17, 21}

Model homes without staffed sales offices are permitted internally within the subdivision.¹²

Section 8.11 Petroleum Products Refining or Storage²³

Petroleum refining or storage (above ground in tanks) requires adherence to all state and federal laws, as well as National Fire Underwriters Codes.

Section 8.12 West Virginia Legal Fireworks²³

Sales of fireworks are only permitted in the commercial zones provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met.⁸

Section 8.13 Dormitory²³

A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.

Section 8.14 Rural Reception/Event Facility²⁶

A Rural Reception/Event Facility is a facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events. Such events are allowed by Special Exception in accordance with Section 10.5B of this Ordinance.

A Rural Reception/Event Facility, Small, is a Rural Reception/Event Facility in the Rural District only, for the hosting of events such as weddings with attendance not to exceed 75 cars, at a frequency of no more than one event per month. Such events are permitted administratively in accordance with the requirements of a Cottage Industry found in Section 4A.5 of this Ordinance; provided, however, that the maximum square footage for a Cottage Industry shall not apply to a proposed Rural Reception/Event Facility, Small. If these requirements are not complied with, the Cottage Industry permit can be revoked.

Approvals of all Rural Reception/Event Facility and Rural Reception/Event Facility, Small shall include a provision that noise at the property line shall conform with Section 8.9A.1 of this Ordinance and shall apply the Residential Growth District Standard to all adjacent lots containing a residence as well adjacent lots in the Rural District.

Section 8.15 Accessory Agricultural Dwelling Unit²⁶

A dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria: (a) is limited in size to a maximum of 1,700 heated square feet, gross floor area; (b) is located on a property for which the primary use is an agricultural use as defined by this ordinance; (c) is located on a property of at least 10 acres in area; and (d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property.

ARTICLE 9: EXCEPTIONS

Section 9.1 General

The regulations specified in this ordinance shall be subject to the following exceptions, modifications and interpretations.

Section 9.2 Building Height Limitations

Building height limitations shall not apply for public utilities, agricultural uses, communication poles and towers, chimneys, steeples, water tanks, electric generating plants, electric transforming or switching equipment, flagpoles, fire or observation towers, monuments, or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, hospitals, schools, colleges and public buildings. Commercial wireless communications facilities shall comply with Article 4B.^{7, 10, 22}

Section 9.3 Lot Area Modification

In any district where a single-family dwelling is permitted, a dwelling may be erected on any lot or parcel of record, despite the fact that the lot or parcel does not meet the minimum area requirements of this ordinance, provided:

- A. The lot or parcel was lawfully created in compliance with the applicable subdivision regulations in effect at the time the lot was created; and²³
- B. Health Department regulations can be met.

Section 9.4 Setback Modifications

- A. Where the average setback line of at least two (2) existing buildings on lots which are on the same side of the street or road within two hundred (200) feet of the lot in question is less than the minimum setback prescribed by this ordinance, the minimum setback line shall be the average setback line of all buildings within two hundred (200) feet of the proposed building. However, in no case shall the setback line be less than thirty-five (35) feet from the centerline of any abutting road or street.
- B. A structure may be located on a common side or rear lot line of contiguous property owned by the same entity. Provided, however, that the structure shall only be a single family dwelling or an accessory structure. Also provided, however, that the contiguous lots shall be treated as one lot for all purposes by the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations.^{5, 23}
- C. Subdivision signs, school bus shelters and/or mailboxes do not have to comply with setback restrictions provided they are shown and approved on the preliminary or final plat in the subdivision process. In subdivisions approved prior to this amendment, subdivision signs school bus shelters and/or mailboxes can be built as shown on the plat or be replaced in the same general location.^{12, 23}

Section 9.5 Projections Into Yards⁸

- A. Projections such as bay windows, chimneys, entrances, uncovered porches, balconies, and eaves may extend into any required yard not more than four (4) feet; provided that such projections are not over ten (10) feet in width. All roof overhangs may extend into any required yard not more than two (2) feet; provided that the primary structure is located entirely within the appropriate setback.²³
- B. Fences and walls over six (6) feet in height shall meet building lines and yard requirements. A building permit is required before construction. Fences and walls six (6) feet and under in height shall be exempt from building lines and yard requirements unless obstructions to vision at an intersection as referenced in Section 4.9.²³
- C. In the Residential - Light Industrial - Commercial District and Residential Growth District, on townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse (in addition to associated stairs or concrete slabs located beneath the deck) may be reduced to 10' if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

Section 9.6 Accessory Structures

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding one hundred fifty (150) square feet, shall be five (5) feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. No accessory building shall be erected within the required front yard.

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8'side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.

Section 9.8 Seasonal Uses^{5,7}

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing. Newspaper notification requirements of Section 3.4A.3.b apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21, 23}

ARTICLE 10: PROVISIONS FOR SIGNS

Section 10.1 Purpose of Sign Provisions

The purpose of this section is to regulate all exterior signs and interior signs placed for exterior observance so as to protect property values and the character of the County. Any sign placed on land or on a building for the purposes of identification or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building or use.

It is intended that the placement of a particular sign will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. It is also intended that in areas proposed for new development, that signs placed will be harmonious in color, form and proportions to its surroundings.

Section 10.2 General Provisions

- A. No sign shall be erected, hung, or placed in any district except as provided in this Ordinance. No sign erected before the enactment of this Ordinance shall be structurally altered or moved except in accordance with this Ordinance.
- B. No zoning permit shall be required for the repainting or repairing of a sign.
- C. No signs, other than subdivision signs approved by the Planning Commission, shall be located in the right-of-way of any road or on any slope or drainage easement for such road.^{2, 17, 21, 23}
- D. No sign shall be permitted which is an imitation of or which resembles an official traffic control device, railroad sign or signal, or which hides from view or interferes with the effectiveness of an official traffic control device or any railroad sign, signal, or traffic sight lines. Illuminated signs shall be so constructed as to avoid glare or reflection of any portion of an adjacent highway or residential building.
- E. No sign which implies the need or requirement of stopping or this existence of danger shall be displayed.
- F. No sign shall be placed on rocks, trees, or on poles maintained by public utilities.
- G. No sign shall be permitted which becomes unsafe or endangers the safety of the building, premises, or persons and unless maintained in a good general condition.
- H. No sign shall be permitted which contains statements, words or pictures of an obscene, indecent, or immoral character.
- I. No animated signs, as defined by Section 2.2 are allowed.

Section 10.3 Permitted Signs Without Zoning Permit

- A. Signs posted upon property relating to private parking or warning the public against trespassing or against dangers of animals.
- B. Municipal, County, State and Federal signs, including necessary traffic signs.
- C. Historical markers, monuments, or signs erected by a public authority.

- D. Plates on residential structures or premises giving the name or address of the occupant, mailboxes, papertubes, and similar uses customarily associated with residential uses.
- E. A sign indicating the name and/or premises or accessory use of a home for a home occupation or professional purpose, not exceeding the maximum size for such a sign as permitted in Article 4A of this Ordinance.
- F. A sign not exceeding twenty-five (25) square feet on a farm, advertising farm products primarily grown on the premises.
- G. Directional or informational signs of a public or quasi-public nature, such as those containing the meeting date of a community or civic club, or the advertising of a public event.
- H. A temporary real estate sign designating the zoning classification of the parcel, not exceeding twenty (20) square feet and being located on the subject property for sale or lease.
- I. Building contractors', subdivision and/or professional person' temporary signs on buildings or land under construction but not to exceed one hundred (100) square feet.
- J. Election signs, provided that unsuccessful candidate shall remove signs within 15 days after a primary or special election. All signs shall be removed within 15 days after the general election. Signs shall not interfere with traffic visibility.
- K. All temporary signs shall be removed thirty (30) days after the event, unless otherwise specified in Article 10.

Section 10.4 Signs Requiring a Zoning Permit

- A. Business and outdoor advertising signs in all zoning districts shall require a Zoning Certificate before placement on any property or building.²
- B. Any exterior sign or signs pertaining to the use conducted on the premises, and which is either integral with or attached to the principal building, shall have a sum total area of no more than two square feet for each foot in length of the frontage of the building. No sign shall be attached to the side of the building that faces an adjoining residence. All signs placed on a property whose use is governed by the Development Review System is subject to Section 10.4E.
- C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least forty (40) feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way, and that no part of the sign is closer than five (5) feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed thirty-five (35) feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. Signs governed by the Development Review System are subject to Section 10.4E. Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.⁸

- D. All outdoor advertising signs shall be spaced in such a manner that in an Industrial District there shall be a minimum of three hundred (300) feet between signs, and in the Rural District, where permitted, such signs shall be located in such a manner that there shall be one thousand (1,000) feet between signs. This shall be subject to Section 10.4E.
- E. All signs accessory to land use that must be evaluated by the Development Review System (DRS) shall be proposed within the DRS application and assessed at the Compatibility Assessment Meeting. Such signs shall be maintained at least one thousand (1,000) feet between signs. Consideration of the placement of such signs with less than one thousand (1,000) foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of three hundred (300) feet. The Planning Commission shall make this determination if the location cannot be agreed upon at the Compatibility Assessment Meeting.^{2, 17, 21, 23}
- F. No outdoor advertising sign shall be placed closer than three hundred (300) feet to an intersection on a dual or proposed dual highway or within one hundred feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
- G. All outdoor advertising, excluding billboards subject to Section 10.4H, shall comply with front yard setback provisions in the districts in which they are permitted.
- H. Billboards
 - 1. No billboard shall be closer to any public highway right-of-way than three (300) feet.
 - 2. Placement of a billboard must be in a location that is within eight hundred (800) feet of an existing business.
 - 3. There shall be a minimum of one thousand (1000) feet between billboards.
 - 4. A billboard shall be no closer than five hundred (500) feet from a church, school, or cemetery.

Section 10.5 Special Exception Uses²⁶

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
 - 1. The public hearing shall be conducted according to the requirements of Section 3.4A.3.c.
 - 2. Such hearing may be continued according to the requirements of Section 3.4A.3.d.
 - 3. The public hearing is subject to the notification requirements of Section 3.4A.3.b.
- B. The following uses may be approved as a Special Exception:
 - 1. Outdoor advertising signs including billboards. The Board of Zoning Appeals shall determine if such a sign conforms to existing State law and does not have a negative effect on the neighborhood or intent of this Ordinance.^{17, 21}
 - 2. Detached “Accessory Agricultural Dwelling Units” for agricultural purposes, such as units for occupancy by farmworkers or caretakers, may be approved based on the Board’s

evaluation of the size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood. One unit meeting the definition of “Accessory Agricultural Dwelling Unit” may be permitted administratively for each property meeting the criteria of Section 8.15 on the effective date of this Amendment. Additional units may be permitted by Special Exemption in accordance with this Section.

3. Use of existing structures and outdoor areas as “Rural Reception/Event Facilities” for weddings and similar events in the Rural, Village, Residential Growth, and Residential-Light Industrial-Commercial Districts. Such a land use may be approved based on the Board’s evaluation of the proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood. For events exceeding 300 persons, applicants shall provide a traffic control plan.

Section 10.6 Zoning Certificate²

All Zoning Certificate applications for signs may be approved by the Departments of Planning and Zoning if in conformance with the regulations.^{17, 21, 23}

ARTICLE 11: OFF-STREET PARKING STANDARDS²³

Section 11.1 Non-Residential Parking Standards

A. To decrease congestion, permanent off-street automobile parking space and truck loading space shall be provided for all new structures and uses, and for existing structures or uses that are increased in size by 20 percent or more after adoption of these regulations.²³

Spaces shall be required per use and are as follows:⁵

Ambulance Facility	2 spaces per ambulance
Auto Sales and Service	1 space per 300 square feet of gross floor space
Auto Service Station	2 spaces per service bay; plus, 1 space per employee
Bank, Financial Institution ²³	1 space per 200 square feet of floor space ; plus, 5 queuing spaces for each drive-up teller
Bowling Lanes	5 spaces per bowling lane
Church	1 space for each 5 persons for which seating is provided in the sanctuary
Commercial Retail Sales Less than 2,000 square foot floor space	1 space per 150 square feet retail floor space
Commercial Retail Low customer turn over, large indoor display, e.g. carpet, furniture or appliance sales	1 space per 500 square feet retail floor space
Community Center, Cultural Facility ²³	1 space per 400 square feet floor space
Private Club, Lodge	1 space for each 2 persons for which seating or lodging is provided
Educational (Schools)	1 space per employee; ample student and visitor parking
Fire Station	10 spaces minimum
Hospital ²³	1.5 spaces for each bed; plus, 1 space for every employee
Hotel, Resort	1 space per guest room; plus, 1 space per 5 employees

Manufacturing Plant	1 space per employee on maximum working shift
Medical or Dental Offices/Clinic	5 spaces per 1000 square feet of gross floor space
Mortuary or Funeral Parlor ²³	1 space per 150 square feet of floor area devoted to viewing and 1 space per vehicle used in activity; plus, 1 space per each two employees; with a minimum of 20 spaces
Motel, Tourist Home	1 space per guest room or suite
Nursing Home	1 space per 400 square feet floor space
Office Building	1 space per 300 square feet floor space
Professional Building Other than Medical	2 spaces per 300 square feet floor space
Recreational Establishment ²³ Other than theaters, swimming pools and bowling lanes	1 space per 80 square feet of floor space and/or as determined by extent of outdoor use
Restaurant, Tavern, Lounge, Nightclub	1 space per 50 square feet customer floor space
Shopping Center ²³ Retail greater than 2,000 square feet of floor space	5.5 spaces per 1,000 square feet floor space
Swimming Pool	1 space for every 7 persons permitted at any one time
Theater, Auditorium, Stadium	1 space per every 2 seats
Transportation Terminal	1 space per main shift employee
Warehouse or Wholesale Establishment	1 space per main shift employee; plus, 2 spaces per wholesale establishment

- B. Parking requirements for uses not listed in 11.1A may be either approved or established by the Departments of Planning and Zoning on a case-by-case basis. Justification for said requirements must be documented.^{8, 17, 21, 23}
- C. Upon request, on a case by case basis, the Zoning Administrator may administratively waive permanent off-street automobile parking and loading requirements for seasonal or temporary uses, agricultural uses, events, or other types of uses that do not require parking on a regular basis, and require less than 30 spaces. The applicant must provide an exhibit that demonstrates that the parking will occur on usable ground, shows the location of the parking, and identifies how handicapped accessibility (if applicable) will be addressed.²⁶

Section 11.2 Residential Parking Standards²

To decrease congestion, permanent off-street automobile parking space and truck loading space shall be provided for all new structures and uses, and for existing structures or uses that are increased in size by 20 percent or more after adoption of these regulations.²³

Spaces shall be required per residential uses as follows:

<u>Type of Residences</u>	<u>Parking Requirements</u>
Single Family Detached	Driveway Only
Single Family Attached (Duplex or Two-Family)	Driveway Only ²³
Single Family Attached (Townhouse)	See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 5.0 ²³
Multi-Family	See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 6.0 ²³

ARTICLE 12: MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the Planning Commission for analysis, study, report, and recommendations regarding compatibility with the Comprehensive Plan as well as consideration as to whether a Conditional Use Permit (CUP) or other process may be a more appropriate process.^{17, 21, 23, 25}

Section 12.2 Procedure for Amendment by County Commission^{1,25}

- A. After the enactment of the Zoning Ordinance, the governing body of the County may amend the Zoning Ordinance without holding an election.^{17, 21}
- B. Before amending the Zoning Ordinance text or map, the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.^{17, 21, 25}
- C. All amendments to the Zoning Ordinance Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.
 - 1. Public Notice of the Public Hearing for a Zoning Map amendment before the Planning Commission requires the following:
 - a. A legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation;
 - b. Any property affected by the proposed zoning map amendment shall be posted not less than 20 and not more than 28 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property; and²⁶
 - c. All property owners adjoining the property proposed to be rezoned shall be noticed by first class mail not less than 20 and not more than 28 days prior to the Public Hearing. The adjoining letters shall be mailed by the Department staff and shall state the time, date, and location of such hearing, as well as, what new zone is being requested on this particular property. The letter shall also describe the location and identification of the subject parcel proposed to be rezoned, including the current tax district, map and parcel number.²⁶

2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.
- D. All amendments to the Zoning Ordinance Text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended text amendments require a Public Hearing before the County Commission prior to a final determination.
1. Public Notice of the Public Hearing for a Zoning Text Amendment before the Planning Commission requires the following:
 - a. A legal advertisement describing the Sections of the Ordinance proposed to be revised, with a summary of the revision(s), and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation.
 2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.

Section 12.3 Procedure for Map Amendment by Petition²⁵

A. Map Amendments by Landowners

The procedure for processing a map amendment petition initiated by the owners of fifty percent or more of the real property to which the petition relates shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

Petitions for a map amendment initiated by landowners shall be submitted to the Planning Commission and shall contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4B
5. Tract size
6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.^{17, 21}

Planning Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission meeting. A complete petition, and related fees, shall be submitted to the office of the Departments of Planning and Zoning for placement on a Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, the Departments of Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for the purpose of setting the public hearing date.

Notice of the Planning's Public Hearing shall be in accordance with Section 12.2 of this Ordinance. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forward to the County Commission within four weeks of final Planning Commission action.

B. Map Amendments by the Planning Commission

The procedure for processing a formal map amendment petition initiated by the Planning Commission shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

Petitions for a map amendment initiated by the Planning Commission shall be presented to the County Commission and submitted to the County Clerk for filing on the same date. On such petitions a map amendment shall be clearly labeled as "§8A-7-9 Petition" in the heading and contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4B
5. Tract size
6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.^{17, 21}

The County Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date of the meeting at which the petition is presented to the County Commission. The petition and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

The Planning Commission may opt to proceed on a proposed map amendment by informal written request for action to the County Commission by submitting the same information required above styled as a "Request for Action" rather than as a "Petition."

Section 12.4 Procedure for Initiating a Zoning Ordinance Text Amendment²⁵

A. Text Amendments by Those Other Than County or Planning Commission

As WV Code §8A allows only the Planning Commission to file a formal petition for a Zoning Ordinance text amendment, the procedure for processing a Zoning Ordinance text amendment initiated by any person, board, commission or bureau of Jefferson County shall be by a written request to the County Commission at a regular meeting. The request and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

Any request for a text amendment shall include the proposed text in context with the adopted Zoning Ordinance text and shall include a statement as to why such proposal is consistent with the adopted Comprehensive Plan.

The County Commission may refer the proposed amendment to the Historical Landmarks Commission or other appropriate body for comment and shall refer the proposed amendment to the Planning Commission in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended, to provide advice on the consistency with the Comprehensive Plan. If the County Commission decides to consider the request, a Public Hearing would be required in order to amend the Zoning Ordinance. The Planning Commission may hold a hearing regarding the request as well in order to make an informed recommendation to the County Commission.

B. Text Amendments by Those Other Than County or Planning Commission (Alternate Process)

Any person or any board, commission or bureau of Jefferson County may submit a proposed Zoning Ordinance text amendment to the Planning Commission for consideration within its work plan at a regular Planning Commission meeting. Such a request must be submitted in writing to the office of the Departments of Planning and Zoning for placement on a Planning Commission agenda at least two (2) weeks prior to the meeting date at which the request will be presented. Any request for a text amendment shall include the proposed text in context with the adopted Zoning Ordinance text and shall include a statement as to why such proposal is consistent with the adopted Comprehensive Plan.

The Planning Commission, with the advice of staff, can determine if and when to under-take such a request in light of other work plan tasks and development review activities are currently under consideration. If the Planning Commission decides to consider the request, a Public Hearing would be required and the Planning Commission would need to determine if the request is consistent with the Comprehensive Plan in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended. The Planning Commission would then make a recommendation regarding the potential text amendment to the County Commission who would also be required to hold a Public Hearing.

C. Text Amendments by the Planning Commission

If the Planning Commission determines that a text amendment to the Zoning Ordinance is required in accordance with its work plan, for the purpose of improving or clarifying the ordinance, or for consistency with adopted policies, the Planning Commission will develop a draft of the proposed amendment, receive public input, conduct a Public Hearing in accordance with Section 12.2D, and make a recommendation for action to the County Commission through a regular agenda request process. Any such amendment proposal will include the background and reasoning of the proposed amendment as well as a discussion of consistency with the adopted Comprehensive Plan.

With its recommendation, the Planning Commission will request that the County Commission schedule a workshop, if necessary, and a Public Hearing at dates to be determined by the County Commission to receive comment and take action on the proposed amendment.

D. Text Amendments by the Planning Commission by Petition

The Planning Commission may alternatively submit a text amendment by petition to the County Commission. The procedure for processing a formal text amendment petition initiated by the Planning Commission shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

Petitions for a text amendment initiated by the Planning Commission shall be presented to the County Commission and submitted to the County Clerk for filing on the same date. Such petitions for a text amendment shall be clearly labeled as “§8A-7-9 Petition” in the heading and contain the following information:

1. Substantiation for the request;
2. Notation that said text amendment applies county-wide;
3. Discussion on why such proposal is consistent with the adopted Comprehensive Plan.

The County Commission is required to set a public hearing on the proposed Zoning Text amendment within 60 days of the date upon which the petition is presented to the County Commission at a County Commission meeting. The petition and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²³

This table is for reference purposes only. In the event of a conflict with the text of the Zoning and Land Development Ordinance, the Ordinance shall prevail.

Zoning District	Land use	Land Use Subtype	Minimum Lot Area (MLA) (square feet) ***	Area per Dwelling Unit (ADU) (square feet)	Lot Width (feet)	Maximum Building Height (feet)*	Setbacks (feet)			
							Front	Side	Street Side	Rear
Residential Growth	Single-family detached dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
	Duplex dwelling unit	No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
		Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
	Townhouse	Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
		Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-family dwelling	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-family dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	‡	12
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	‡	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	40	20	8	‡	12
Rural	Dwellings		40,000	N/A	100	35	40	15	‡	50
	Single-family dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	35	40	15	‡	50
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	35	25	12	‡	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	35	20	10	‡	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	35	20	8	‡	12
	Cluster Subdivision	<i>See Residential Growth</i>								
	Residential use that complies with the Development Review System	<i>See Residential Growth</i>								
Village	Residential uses	<i>See Residential Growth</i>								
Residential/Light Industrial/Commercial	Residential uses	<i>See Residential Growth</i>								
Industrial-Commercial	Residential uses	<i>See Residential Growth</i>								

* Maximum height subject to Section 9.2.

** Exterior side only.

*** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

‡ See setback requirements noted in Section 2.2, definition of "Lot, Corner".

All detached accessory structures under 144 square feet in size - 6' setback. (Residential Growth District).

For all lots approved prior to Sept. 1, 1989, lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.

APPENDIX B: NON-RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²³

This table is for reference purposes only. In the event of a conflict with the text of the Zoning and Land Development Ordinance, the Ordinance shall prevail.

Zoning District	Development Type	Minimum Lot Area (MLA)	Minimum Lot Width (feet)	Maximum Building Height* (feet)	Impervious Surface Limit	Setbacks (feet)		
						Front	Side	Rear
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	50 (or 25' if adjacent to industrial use)	
	Industrial	3 acres***	N/A	75	90%	50 (or 25' if adjacent to industrial use)		
Residential/ Light Industrial/ Commercial	Commercial or Industrial	See Industrial-Commercial District						
Rural	Churches	2 acres	200	35	N/A	25	50	50
	Schools, Grades K-4****	10 acres +	500	35	N/A	100		
	Schools, Grades 5-8****	20 acres +	500	35	N/A	100		
	Schools, Grades 9-12****	30 acres +	500	35	N/A	100		
	Hospitals	10 acres	500	35	N/A	100		
	Other Rural Principal Permitted Uses	40,000 sq. ft.	100	35	N/A	40	50	50
	Commercial or Industrial**	See Industrial-Commercial District						
Village District	Commercial †	N/A	N/A		N/A	25	10	40
	Industrial**	See Industrial-Commercial District						
Residential Growth	Commercial or Industrial**	See Industrial-Commercial District						

* These yard requirements are also for an approved commercial or industrial use proposed for any other zone. [Source: Section 5]

** If land use(s) approved via Compatibility Assessment Meeting process or Development Review System process in accordance with the Zoning and Land Development Review Ordinance.

*** MLA for Industrial uses does not apply if the site is located in an approved Industrial Park. [Source: Section 5.6E]

**** For schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly. [Source: Section 5.7B]

† Village Commercial setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood. [Source: Section 5.10C]

‡ Setback may be reduced if adjacent to industrial use.

APPENDIX C: PRINCIPAL PERMITTED USES TABLE²³

This table is for reference purposes only. In the event of a conflict with the text of the Zoning and Land Development Ordinance, the Ordinance shall prevail.

Land Use	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Residential Uses							
Dwelling, Single Family	P	P	P	NP	P		
Dwelling, Two Family	P	P	P	NP	P		
Dwelling, Duplex	NP	P	P	NP	P		
Dwelling, Townhouse	NP	P	P	NP	NP		
Dwelling, Multi-Family	NP	P	P	NP	NP		
Day Care Center, Small	P	P	NP	P	NP		
Mobile Home	P	NP	NP	NP	NP		
Mobile Home Park	NP	P	P	NP	NP		
Model Homes/Sales Office	P	P	P	NP	NP	Sec. 8.10	
Home Uses							
Home Occupation, Level 1	P	P	P	P	P	4A.3	4A.1
Home Occupation, Level 2	P	P	P	P	P	4A.4	4A.1
Cottage Industry	P	P	P	P	P	4A.5	4A.1
Institutional Uses							
Church	P	P	P	NP	PC		
Day Care Center, Large	NP	P	P	P	PC		
Hospital	P	P	P	NP	NP		
Group Residential Facility	P	P	P	NP	P		
Group Residential Home	P	P	P	NP	P		
Residential Care Home	P	P	P	NP	P		
Nursing or Retirement Home	NP	P	P	NP	NP		
Cultural Facility	P	NP	P	P	P		
Elementary or Secondary School	P	P	P	NP	NP		
Preschool	P	P	P	NP	NP		
Vocational and Training Facility for Adults	P	P	P	NP	NP		
Public Safety Facility	P	P	P	P	P		
Publicly Owned Facility	P	P	P	P	NP		
Essential Utility Equipment	P	P	P	P	P	4.7	
Industrial							
Salvage Yards	NP	NP	NP	PC	NP		
Slaughterhouses, Stockyards	NP	NP	NP	PC	NP		
Heavy Industrial Uses	NP	NP	NP	P	NP		Sec. 8.9
Light Industrial Uses	NP	**	P	P	NP		Sec. 8.9
Shooting Range	NP	NP	NP	P	NP		

Principal Permitted Uses Table (continued)^{23, 24}

Land Use	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Industrial Manufacturing & Processing							
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	PC	NP		
Bituminous concrete mixing and recycling plants	NP	NP	NP	PC	NP		
Cement or Lime Manufacture	NP	NP	NP	PC	NP		
Commercial Sawmills	NP	NP	NP	PC	NP		
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	PC	NP		
Explosive manufacture or storage	NP	NP	NP	PC	NP		
Foundries and/or casting facilities	NP	NP	NP	PC	NP		
Garbage or dead animal reduction or processing	NP	NP	NP	PC	NP		
Jails and Prisons	NP	NP	NP	PC	NP		Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	PC	NP		
Petroleum products refining or storage	NP	NP	NP	PC	NP		Sec. 8.11
Adult Uses							
Adult Uses	NP	NP	NP	P	NP		Sec. 8.1
Recreational Uses							
Hunting, Shooting, Archery and Fishing Clubs, public or private	P	NP	NP	NP	NP		Sec. 8.8
Commercial Uses							
Antique Shop	NP	NP	P	P	PC		
ATM	NP	NP	P	P	PC		
Branch Bank	NP	NP	P	P	PC		
Barber/Beauty Shop, Limited	NP	NP	P	P	PC		
Bed and Breakfast	P	NP	NP	NP	PC		Sec. 8.3
Commercial Uses	*	**	P	P	*		Sec. 8.9
Country Inn	NP	NP	P	P	PC		
Kennel	P	NP	P	P	NP		Sec. 8.4
Dry Cleaners	NP	NP	P	P	PC		
Florist	NP	NP	P	P	PC		
Medical/Dental/Optical Office, Small	NP	NP	P	P	P		
Non/Not for Profit Commercial Uses	NP	NP	P	P	NP		
Non-Profit Community Centers	P	NP	P	P	NP		
Restaurant, Fast Food, Limited	NP	NP	P	P	PC		
Restaurant, Limited	NP	NP	P	P	PC		
Retail Food Store, Limited	NP	NP	P	P	PC		
Veterinary Services	P	NP	P	P	NP		Sec. 8.x
Video Rental Stores	NP	NP	P	P	PC		
Wireless telecommunications facilities	P	PC	PC	P	PC	Sec. 4B	

Principal Permitted Uses Table (continued)²³

Land Use	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Agricultural Uses							
Accessory Agricultural Dwelling Unit ²⁶	P	NP	NP	NP	NP	Sec. 10.5B	
Agricultural Repair Center	P	NP	P	P	NP		
Agricultural Tourism	P	NP	P	P	NP		
Agricultural Uses as defined in Article 2	P	P	P	P	P		
Farm Brewery ²⁶	P	NP	P	P	NP		Sec. 8.5
Farm Winery ²⁶	P	NP	P	P	NP		Sec. 8.5
Farm Distillery ²⁶	P	NP	P	P	NP		Sec. 8.5
Farm Market	P	NP	P	P	NP		Sec. 8.6
Farm Vacation Enterprise	P	NP	P	P	NP		
Feed and/or Farm Supply Center	P	NP	P	P	NP		
Horticultural Nurseries and Commercial Greenhouses	P	NP	P	P	NP		
Landscaping Business	P	NP	P	P	NP		
Rental of Existing Farm Building for Commercial Storage (structure must have existed for 5 years)	P	NP	P	P	NP		
Rural Reception/Event Facility, Small ²⁶	P	NP	NP	NP	NP	Sec. 4A.5	
Rural Reception/Event Facility ²⁶	P	P	P	NP	P	Sec. 10.5B	
Accessory Uses							
Accessory Uses	P	P	P	P	P		

P = Permitted use

NP = Not permitted use

PC = Use permitted conditionally subject to requirements of district

* = Limited permitted uses

** = Accessory use to a planned residential community